

RIGHT OF WAY OPERATIONS MANUAL 2025



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**DIVISION
ADMINISTRATION**

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DIVISION ADMINISTRATION

The purpose of the Right of Way Division Right of Way Manual (ROM) is to establish general guidelines for the administration, management and policies of the Right of Way Division. The ROM serves as an internal operation manual and describes in detail the many Right of Way Division functions and the processes to accomplish those functions. Please review all pertinent chapters of the Right of Way Operations Manual.

The Right of Way Division Appraisal and Acquisition forms can be found on the intra-office MDOT @ Work ROW website. Relocation forms are generated in the Parcel Tracking System.

Major Functions Administered by ROW Division

The Right of Way Division acquires and clears real property needed for the construction of public transportation projects using procedures that prevent conflicts of interest and avoids fraud, waste and abuse.¹ This includes the orderly acquisition of real property, relocation of residents, businesses and utilities and the removal of improvements, in compliance with legal requirements of State and Federal laws and regulations.² The Right of Way Division is under the direction of the Division Director, who in turn reports to the Director of Preconstruction – Program Management. The Director of Preconstruction reports to the Office of Highways Chief Engineer/Deputy Executive Director, who reports directly to the Executive Director of MDOT and the Mississippi Transportation Commission. The major functions that are administered and managed by the MDOT ROW Division include the following:

1. **Title Abstracting.** Development and provision of title abstracts for all property being acquired for public transportation projects. (Please refer to the Title Abstracting Chapter of the ROM for additional information)
2. **Appraisal.** Preparation of Appraisal Reports and Review of Appraisals. (Please refer to the Appraisal Chapter of the ROM for additional information)
3. **Acquisition.** Acquisition of real estate, and preparation of waiver valuations. (Please refer to the Acquisition Chapter of the ROM for additional information)
4. **Relocation Assistance.** Administration of the relocation assistance program. (Please refer to the Relocation Chapter of the ROM for additional information)
5. **Property Management.** Disposition of buildings or other improvements and asbestos testing and abatement of asbestos in buildings and other improvements located on acquired property. (Please refer to the Property Management Chapter of the ROM for additional information)
6. **Utility Relocation.** Coordination of utility relocation agreements with utility companies and local governmental agencies with utility facilities on property to be acquired by MDOT. (Please refer to the Utility Chapter of the ROM for additional information)
7. **Legal.** Liaison and coordination with the Office of the Attorney General in the preparation and processing of all legal matters related to the acquisition of real estate such as condemnation proceedings. (Please refer to the Legal Chapter of the ROM for additional information)
8. **District Coordination.** Liaison between the District, District Engineer, ROW Division Administration, general public, property owners, and Field Agents and Consultants, coordination of ROW activities, assessment and reporting on ROW project progress, and provision of input and assistance to ROW project problems. (Please refer to the District Coordinator Chapter of the ROM for additional information)

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9. **Local Public Agencies.** Monitoring and oversight of Local Public Agencies. Also, Local Public Agencies shall use the Right of Way Operations Manual as guidance on their projects.
10. **Right of Way LPA Coordination.** Liaison between the MDOT District LPA Coordinator, the LPA Division, the Right of Way Division, and FHWA, providing coordination, monitoring, technical assistance and oversight of LPA projects, and providing assessments, reports and recommendations on LPA projects to the ROW Administration. (Please refer to the MDOT ROW LPA Coordinator Chapter of the ROM for additional information).
11. **Consultant Contract Administration.** Administration and management of consultant contracting processes and procedures. (Please refer to the Consultant Contract Administration Chapter of the ROM for additional information)
12. **Division Support.** Accounting and office management, including operations support and maintenance of adequate records of the acquisition and property management activities including monitoring of all ROW Division expenditures. (Please refer to the Accounting Chapter and, the Office Management Chapter of the ROM for additional information)

1. Management and Staff Responsibility and Legal Authority

1.1 Right of Way Division Administration

The Right of Way Division Director, Assistant Division Administrator and the Right of Way Operations Administrator direct all activities affecting acquisition of real property necessary to fulfill the requirements of MDOT. The Division Director reports directly to the Assistant Chief Engineer for Preconstruction.

Division Director Primary Responsibilities

- a. Completes functional work as detailed in Job Content Questionnaire.
- b. Makes executive decisions such as strategic planning and budgeting.
- c. Provides organizational oversight in accordance with 23 CFR 710.201(b) ensuring the ROW Division is adequately staffed, equipped, and organized to conduct its responsibilities.
- d. Provides program oversight in accordance with 23 CFR 710.201(a).
- e. Approves and maintains the Right of Way Operations Manual and Standard Operating Procedures in accordance with 23 CFR 710.201(c) including maintenance of the MDOT-FHWA Oversight Agreement. Update related forms, brochures, and examples, as needed.
- f. Implements project priorities
- g. Requests ROW funding authorization from FHWA
- h. Approves personnel selected by ROW Administration, maintains personnel records, and performs disciplinary actions, as required.
- i. Serves as liaison to the Mississippi Transportation Commission, MDOT executive staff, and the public.
- j. Prepares and issues Right of Way Certifications on MDOT projects (See Project Close Out Chapter).
- k. Administers oversight responsibility of the right of way process of Local Public Agency (LPA) Program on Federal Aid Projects
- l. Prepares and issues Right of Way Certifications for LPA Projects (See Project Close Out Chapter).
- m. Verifies funding and environmental approvals prior to proceeding with real estate activities.

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Assistant Division Administrator Primary Responsibilities

- a. Completes functional work as detailed in Job Content Questionnaire
- b. Provides technical assistance to ROW Division on matters related to the right of way functional areas, as needed
- c. Serves as a consultant selection committee member for Master Contracts
- d. Administers oversight of accounting and office management practices
- e. Administers right of way consultant contract processes, procedures and approves consultant invoices for payments.

1.2 Division Operations Administrator Primary Responsibilities

- a. Completes functional work as detailed in Job Content Questionnaire.
- b. Implements project priorities
- c. Responsible for the management of title, appraisal, acquisition, relocation, and property management activities on ROW projects on a state-wide basis to obtain the right of way needed to construct MDOT projects.
- d. Plans, coordinates and organizes the title abstracts with Roadway Design Division's SMD Section to provide lead time to prepare maps and deeds. Coordination between SMD and other activities.
- e. Assesses project complexity and letting date vs. staff availability and experience and recommend use of consultants, as required.
- f. Serves as a consultant selection committee member for Master Contracts
- g. Approves settlement terms in eminent domain related lawsuits.
- h. Manages Tracking and Reporting
- i. Reviews and issues written response to relocation appeals

1.3 Legal Authority

The Right of Way Division functions are performed in compliance with the following laws and regulations:

- a. United States Constitution
- b. Mississippi Constitution of 1890
- c. Mississippi Code of 1972
 - § 11-27-1 through §11-27-91; and
 - § 65 in its entirety
- d. Code of Federal Regulations
 - 23 CFR 710; and
 - 49 CFR 24
 - 23 CFR 635 Subpart C

1.4 Operation under the MDOT's Title VI Program

The Right of Way Division operates under the MDOT's Title VI Program, including but not limited to, the following information:

- a. U.S. DOT Standard Title VI Non-Discrimination Assurances DOT Order 1050.2A.
- b. Consistent with this policy, all programs and activities administered by the Right of Way Division shall comply with Title VI of the Civil Rights Act of 1964 and related statutes and regulations to include the Civil Rights Restoration Act of 1987 and the Americans with Disabilities Act of 1990;
- c. The Civil Rights Division is the Department's Title VI Specialist. All complaints of alleged discrimination shall be reported to the Civil Rights Division immediately. The investigation and processing of alleged complaints of discrimination will be

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accomplished in accordance with the procedure described in the Department's Title VI Plan.

2. Federal Participation and Reporting Requirements

2.1 Federal Participation Requirements - 23 CFR 710.203 (a)

When a project has federal participation, the Right of Way Division meets all federal requirements for such participation. The following conditions are a prerequisite to federal participation in the cost of acquiring real property except for early acquisition:

- i. The project for which the real property is acquired is included in an approved Statewide Transportation Improvement Program (STIP).
- ii. The State has executed a project agreement [in accordance with 23 CFR 630(A).
- iii. Preliminary acquisition activities, including a title search and preliminary property map preparation necessary for the completion of the environmental process, can be advanced under preliminary engineering prior to National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) clearance, while other work involving contact with affected property owners must normally be deferred until after NEPA approval, except as provided in 23 CFR 710.503 for protective buying and hardship acquisition; and in 23 CFR 710.501, early acquisition;
- iv. Costs have been incurred in conformance with state and federal requirements; and
- v. Other items deemed necessary by the Federal Highway Administration.

2.2 Annual Right of Way Statistics

As required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, for MDOT and LPA projects, the Right of Way Division submits annual reports on the Division acquisition and relocation activities directly to the FHWA - Office of Real Estate Services by work link provided by the FHWA - Mississippi Division. The report provides statistical information on acquisition and relocation activities in Mississippi for both federal and non-federal projects. The designated staff provides this data to the Division Director who then provides the information to FHWA Office of Real Estate Services. The types of data required are listed below.

Acquisition. The annual acquisition data reported includes the following for MDOT and Local Public Agencies for both federal-aid and non-federal aid projects:

- All Parcels acquired (with exceptions for different property interest)
- Parcels Acquired by Condemnation
- Parcels Acquired by Administrative Settlement
- Total Amount Paid for Parcels

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Relocation. The annual relocation data reported includes the following for MDOT and Local Public Agencies for both federal-aid and non-federal aid projects:

Residential:

- Number of Permanently displaced Owner and tenant household
- Total Paid for Residential Moving Expense (actual and fixed payment).
- Total Amount Paid for residential replacement housing payments including Last Resort Housing
- Number of Households permanently displaced as part of last resort housing assistance.
- Number of Tenants Households using a down payment assistance payment.
- Total expenses and payments.

Nonresidential: Business/Farm/Non-Profit Organization:

- Number of Owner and tenant business, farm, non-profit organization displacements
- Total Paid for Moving expenses (actual expense and fixed payment)
- Total Expenses for Reestablishment expenses
- Total Sum of non-residential relocation expenses and payments (excluding administrative expenses).
- Number of Relocation Appeals.

3. Organizational Oversight

3.1 Maintenance of the Right of Way Operations Manual

Federal regulations require the ROW Division to maintain a Right of Way Operations Manual (23 CFR 710.201(c)). Every five years, the Executive Director of MDOT certifies to FHWA that the current ROW Operations Manual conforms to existing practices and contains necessary procedures to ensure compliance with federal and state laws and regulations. MDOT updates the Right of Way Operations Manual periodically to reflect changes in operations and submits the updated materials for FHWA approval.

3.2 Human Resources

The Right of Way Division adheres to all policies and procedures as determined by MDOT's Human Resources Division and the Mississippi State Personnel Board.

3.3 Training

ROW Division staff training is provided, as needed, upon the approval by the Division Director

3.4 Communications

All correspondence that originates from the ROW Division is professional in nature. All correspondence includes a point of contact within the ROW Division, the date, and recipient address, as well as the project name and number, file number, and county, if applicable.

When inquiries are received from property owners, displacees, contractors, the public, or any other interested party, ROW Division staff and consultants respond in a courteous and expeditious manner.

Digital signatures by state law are not allowed on any conveyance instrument. Digital signatures are acceptable for internal communication.

3.5 Communications Mediums

The ROW Division adheres to MDOT policy regarding all communications mediums including, but not limited to, telephones, cell phones, facsimile, and computers.

¹ 23 CFR 710.201(c)

² 23 CFR 710.201(b)

**DISTRICT
COORDINATOR**

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The following procedures document the responsibilities of Right of Way District Coordinators. Right of Way District Coordinators serve as liaisons between their District, District Engineer, ROW Administration, ROW Consultants, public, property owners, and Field Agents. Right of Way District Coordinators coordinate right of way activities, assess and report on right of way project progress, and provide input and assistance to right of way project problems.

Please review all pertinent chapters of the Right of Way Operations Manual.

1. Represent Right of Way Division in Preliminary Project Phases

District Coordinators are involved with the design and preconstruction processes that occur prior to traditional right of way acquisition activities. In these processes, the District Coordinators represent right of way considerations that need to be addressed early in project development.

1.1 Participate on Location and Design Committee

The District Coordinator participates on the Location and Design Committee that is responsible for developing project alternatives. The District Coordinator looks for right of way considerations on each alternative project location that may impact the selection of a particular location. The District Coordinator places notes of site review in the PTS Project Priority screen when the project has been added.

The Roadway Design Division may issue preliminary ROW plans following the Location Design Committee so that the ROW Division can initiate research, such as preliminary title investigations, relocation information (community impacts study), and property management activities.

Upon receipt of the preliminary ROW plans, the District Coordinator shall review the project and compile all preliminary information, including, but not limited to, an initial estimated cost, number of parcels, types of parcels identified, noting any possible project circumstances, and a preliminary estimate of time necessary to perform all right of way functions. The District Coordinator shall then enter preliminary information into Project Priority of the Parcel Tracking System and place the date of review in Line 2 of the Project Priority Schedule.

1.2 Participate in Field Visit/Conduct Preliminary Project Review

A Roadway Design Division Engineer coordinates and schedules the field visit. The District Coordinator attends the field visit and conducts a preliminary review of the project. It is the responsibility of the District Coordinator to coordinate and manage the activities of the ROW Agents and Consultants during this process. During the field visit, the District Coordinator walks the property and reviews preliminary ROW plans with the Roadway Design Division Engineer, and coordinates and manages all ROW functions, staff and Consultant attendance and participation. The District Coordinator looks for right of way considerations that may be addressed through design changes. These right of way considerations may include the following:

- Easements for driveways or ponds
- Lack of access lines
- Historic sites
- Churches Cemeteries
- Parks

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- Environmental concerns (such as, underground storage tanks, dry cleaners, funeral homes, farm shops, crop dusters)
- Personal property relocation
- Listing of secondary roads
- Utilities
- Encroachments
- Culverts and riprap (need to be on permanent right of way)
- Correct topography (fences, improvements, billboards, and signs)
- Proximity to improvements (if close, can it be pulled off or is there a need to acquire)

Upon completion of the field visit, the District Coordinator places project notes into the PTS Discussion screen, including inspection date.

1.3 Procure Project Funding Estimates

The ROW Division prepares funding estimates for anticipated ROW costs on future projects. These estimates are used to compare the costs of alternatives during the environmental process and the amount of funds that should be programmed in a project for right of way acquisition costs. These estimates are prepared by the assigned-on call appraiser or staff review appraiser and representatives of relocation, property management, and the Environmental Division. Following the Field Review, the prepared estimates are provided to the District Coordinator who enters the cost estimate into the Parcel Tracking System. Once the final ROW plans are distributed, the cost estimates are updated by the appraiser and other affected sections. These final estimates are posted in the PTS system by the District Coordinator who advises the Division Administrator and Assistant Division Administrator of the estimated number of parcels and estimated costs. The Division Administrator and Assistant Division Administrator calculate and add miscellaneous costs for consultant related fees and administrative costs for staff related fees to the estimate to complete the ROW cost estimate for the project. This estimate is used as a basis for the Division Administrator to request funding for the project.

1.4 Participate in Office Review

The Roadway Design Division completes the project design and conducts an office review. The District Coordinator attends the office review to represent potential right of way considerations. Based on the findings of the office review, the Roadway Design Division prepares the Final Plans (sometimes called Construction Plans or Small Blues).

1.5 Review Environmental Documentation

The District Coordinator reviews the Environmental Documentation for any applicable ROW Commitments contained in the Environmental Document (see Gold Sheet), and advises all applicable ROW staff, field agents and Consultants of those Commitments.

1.6 Participation in Other Project Meetings

The District, Roadway Design, Environmental, or any other division may additionally request a site project review or an office review to specifically deal with an issue that is project-specific, i.e., meetings with stakeholders prior to project commencement, specifically dealing with parcel issues such as alleged gravesites, historical properties, or necessary plan changes, and may request that the ROW District Coordinator be present. The ROW District Coordinator should make every reasonable effort to attend project issue-specific requested meetings.

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2. Project Oversight

2.1 Preliminary Project Coordination Activities

Upon receipt of the first set of ROW Acquisition Plans and Maps, the Division Operations Administrator sends a notice to the District Coordinator to advise them of the proposed start date of the project. Based on this notification, the District Coordinator conducts their responsibilities at the beginning of each project which include the following:

- Works with the District Engineer and District Pre-Construction Engineer to ensure the project is staked just prior to Appraisers beginning the appraisal process in the field; and
- Obtains proper maps and reviews the project in the office and in the field (prior to the project acquisition kickoff meeting).

2.2 Project Acquisition Kickoff Meeting

Upon receipt of the project start date from the Division Operations Administrator, the District Coordinator may schedule a “project acquisition kickoff meeting” depending on the scope and size of the project. The project acquisition kickoff meeting is a short meeting of the entire acquisition project team to establish the basic project objectives.

Invited personnel may include Appraisal Consultants or Staff Appraiser(s), Acquisition Consultants, and Relocation Consultants, if applicable, Relocation Agents, Property Management Agents, SMD, FHWA, and local officials. Other invited personnel may include District Utility Coordinators, District Pre-Construction Engineers, and other Department staff, as appropriate.

The project acquisition kickoff meeting is held prior to the performance of the appraisal process on the project. The topics discussed may include, but not be limited to, the following:

1. Review project files
2. Project start and end dates, if known
3. Contract letting schedule and desired possession date
4. Project purpose and benefits
5. Contact information for:
 - Project Engineer
 - Relocation Agent(s)
 - Acquisition Consultant(s)
 - Review Appraiser (Consultant or Staff)
 - Appraisal Consultant(s)
 - Property Management Agent(s)
 - Other acquisition team members, as appropriate
6. Review of maps
7. Discuss staffing which could include ROW Consultants assigned and the location and contact information of their project office(s).
8. Establish project timelines
9. Tour the project by map, vehicle, and/or foot to become familiar with and oriented to the proposed highway's route and the acquisition areas. In particular, look for potential property owner and displacee issues. Bring potential issues to the attention of the Division Operations Administrator and the District Engineer for resolution.
10. Identify priority parcels. Priority parcels may include those involving relocation of displacees, relocation of utilities, or other complex parcels (such as, those involving improvements, hazardous waste, government agencies, partnerships, businesses, churches, casinos, associations, estates, multiple owners, and out-of-state owners).

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The ROW Administration in coordination with the District Coordinator and Appraiser(s), determines the order in which parcels are appraised and acquired.

11. Number and size of underground storage tanks as well as any other information on potentially contaminated sites.
12. Advise of any environmental commitments.
13. Review special construction features.

2.3 Project Status Reports

Based on meetings with assigned Consultants or ROW Field Agents and the status reports provided to the District Coordinator by the assigned Consultants and/or ROW Field Agents, the District Coordinator provides a Project Status Report to the District Engineer concerning all right of way activities taking place on active right of way projects. District Coordinator Project Status Reports may be verbal or written based on District Engineer and District Coordinator agreement. Some Project Status Reports are provided on an ad hoc basis while others may be regimented based on the District Coordinator's agreement with the District Engineer. District Coordinators monitor the progress of right of way acquisition, displacee relocation and property management issues and advise the District Engineer of any required schedule changes. The District Coordinator provides a written monthly status report on projects to the Division Operations Administrator.

District Coordinators also attend project meetings with the District Preconstruction and/or District Construction Engineer. Project meetings are an opportunity for the District Coordinators to provide project status reports and obtain information from the District Construction Engineers.

2.4 Disposal of Improvements by Demolition

If an improvement requires disposal via demolition, and the Property Management Section does not complete demolition prior to contract letting, demolition may be included in the construction contract. Improvements not removed by abatement/demolition contracts or other means are to be put in the construction contract 30 days prior to the project advertising date.

The DOT Manager who oversees Property Management notifies the District Coordinator when asbestos abatement is complete or that asbestos abatement is not required. If asbestos abatement is required, Property Management ensures services are rendered and abatement is completed. Upon receipt of the Asbestos Abatement Complete (or not required) Notification from Property Management and the Vacancy Memorandum from Relocation, the District Coordinator notifies the Project Engineer of the vacancy and demolition of the improvement is addressed in the construction contract.

2.5 Condemnation/Eminent Domain

District Coordinators will provide assistance to the Department and Consultant(s) relative to condemnation and eminent domain proceedings in the following manner:

- Receive a copy of the request for condemnation survey sent to the District Engineer and the District Surveyor and begin monitoring schedule status to encourage timely delivery from District to Roadway Design.
- Coordinate any assistance necessary to expedite delivery between District, Roadway Design, and Right of Way Division;
- Report status to Right of Way Division Operations Administrator, Division Administrator, Right of Way Attorney, and the District.
- Deliver Right of Entry Check or Interest Check to Courthouse expeditiously upon receipt of the paperwork, Order, and Right of Entry or Interest Check, and promptly forwarding receipt paperwork to Right of Way Attorney.

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3. Field Agent Oversight

3.1 Field Agent, Consultant Oversight

District Coordinators are responsible for maintaining a general awareness of Field Agent and Consultant progress on projects in their District to be able to report project status and Field Agent and Consultant performance. District Coordinators also are aware of Consultant and Field Agent activities to ensure that the message to property owners is consistent.

3.2 Hold Meetings with ROW Project Staff

District Coordinators are encouraged and have the authority to hold project meetings with Consultants and/or Field Agents to be kept informed of the project status and to inform Consultants and/or Field Agents on issues facing the project(s).

Provide Feedback Field Agent and Consultant Activities

On completion of each project, the District Coordinator maybe requested to provide a brief feedback e-mail or memorandum to the Division Operations Administrator for each Field Agent and consultant involved in the project.

4. Liaison Responsibilities

District Coordinators **provide a central point of contact** for all questions related to right of way activities in a given District.

4.1 Information Gathering and Distribution

The District Coordinator regularly gathers information (data, status, maps) to monitor project progress, Field Agent and consultant activities, and other factors in the right of way process. This information also enables District Coordinators to respond to inquiries from the Districts, the Jackson Office, the public, and other interested parties. The District Coordinator is often a central resource for distributing critical materials and information throughout the right of way acquisition process. The following summarizes some of these responsibilities:

- Receive project schedule information from the Division Operations Administrator.
- Gather project status reports to enable overall status reporting. The District Coordinator receives project status reports from each ROW Section or Consultant(s) providing service for (Engineering, Relocation, Acquisition, Appraisal, Legal, Title, and Property Management).
- Appraisal Consultant(s) or the Staff Appraiser(s) report any private water wells or private sewers overlooked in the initial stages of the project they identify to the District Coordinator. The District Coordinator notifies the Environmental Division and Project Engineer of the private water well or private sewer to address the proper capping of the well and/or private sewer.
- Forward the excess property an uneconomic remnant status lists obtained from the Asset Management Division to the District Maintenance Engineer and District Engineer.

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4.2 Project Status Reporting

District Coordinators provide project status reports. Refer to Section 2.3 of this chapter of the ROM for details on District Coordinator status reporting responsibilities.

4.3 Respond to Right of Way Related Inquiries

District Coordinators receive a wide range of inquiries from property owners, the public, vendors, contractors, and other interested parties. If the District Coordinator is unable to answer the question, they have several resources available to them including the ROW Division's Standard Operating Procedures, ROW Division's Operations Manual, Citizen's ROW Acquisition Guide, Citizen's Relocation Assistance Guide, District and Jackson Office personnel, etc. Experts in the specific area of the question are consulted with, if the District Coordinator is unsure of the answer. For example:

- Design-based questions – consult with the Project Engineer, the District Pre-Construction Engineer, the District Construction Engineer or the District Engineer.
- Appraisal questions – consult with the Review Appraiser, Appraisal Consultant, or Staff Appraiser(s) for an answer. Do not give out the Review Appraiser's or Appraisal Consultant's or Staff Appraiser(s) name or phone number.
- Utilities questions- consult with the District Utility Coordinator
- Adding signs, billboards, or driveways consult with District permit Section.

The District Coordinator does not simply refer the inquirer directly to other personnel or resources. The District Coordinator contacts these other MDOT personnel on the inquirer's behalf and responds to the individuals.

4.4 Responding to Inquiries from Field Agents, District Engineers, Project Engineers, and Consultants

District Coordinators assist Field Agents, District Engineers, Project Engineers, and Consultants in ROW acquisition efforts by coordinating the resolution of questions. District Coordinators are a resource to these personnel on an as-needed basis and are not intended to add bureaucracy, but to be the point of contact between the public and the Department.

4.5 Project Development Project Management (PDPM)

District Coordinators participate in their respective District Project Development Project Management (PDPM) meetings throughout the course of a project. The District Coordinator attends the District PDPM meetings and provides the ROW Division Administration and the District with initial and updated estimates throughout the project of the following items:

- ROW cost estimates for project, and
- Completion date for ROW acquisition.

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4.6 ROW Consideration Request

In some cases, MDOT agrees to a right of way consideration, such as a driveway or frontage road access to finalize the acquisition. An agreement for such a consideration between the property owner and MDOT must be documented in writing.

In the case of most driveways or ramps, if the Acquisition Consultant is informed by the property owner that such a consideration would enable finalization of the acquisition; the Acquisition Consultant takes the property owner's request directly to the District Coordinator and the Project Engineer. The District Coordinator then obtains the approval of the Project Engineer and the District Engineer, documents the agreement, and conveys the terms of the agreement to the property owner in coordination with the Acquisition Agent.

In the case of a frontage road, approval by the Division Operations Administrator is required. The request is presented to the District Coordinator who forwards it to the Division Operations Administrator. If the Division Operations Administrator approves the request, the District Coordinator then obtains the approval of the Project Engineer and the District Engineer, documents the agreement, and conveys the terms of the agreement to the property owner in coordination with the Consultant/Acquisition Agent.

In the event the landowner disagrees with the Fair Market Offer presented to them, the property owner has the right to propose a counteroffer. Counteroffers from property owners are to be submitted by the Acquisition Consultant to the District Coordinator who forwards them to the Review Appraiser for consideration and comment. If the Review Appraiser feels the offer is justified a revised appraisal will be performed and a revised FMVO presented to the property owner. If the Review Appraiser's opinion is the offer is not justified; the District Coordinator will present the counteroffer accompanied by the Review Appraiser's comments to the Assistant Division Administrator for further consideration.

In the event of request for additional interest or X deeds, the District Coordinator receives the request from the appraiser, consultant, or field agent and completes a Deed Request form and submits it to the ROW Title Officer. In the event of an X deed request, The Review Appraiser will receive a recommendation for the X deed from the appraiser for approval; the Review Appraiser will then advise the District Coordinator who will submit the Deed Request as indicated above.

5. General Administrative Activities

5.1 Prepare Weekly Itinerary

District Coordinators provide their weekly itinerary to the ROW Administration, and, if requested, to the District Engineer and Construction Engineer, or other District personnel. District Coordinators prepare a weekly itinerary to the best of their ability on each Friday, but due to the nature of their responsibilities their itineraries change frequently. Any changes to the itinerary are reported to the ROW Administration, and, if requested, changes also are reported to the District Engineer and Construction Engineer. When not in the District office during office hours, District Coordinators should keep their mobile phones on.

5.2 Compile Documents for Disposal of Property

If the District or District ROW Coordinator receives a request to dispose of an uneconomic remnant or excess property, the District Coordinator compiles the necessary documentation to submit the request to the District Engineer who approves the sale and forwards the recommendation for sale and documentation to Right of Way Division. This request may be for the disposal of Uneconomic Remnant Property or Excess Property. In either instance, the documentation compiled is the same, as follows:

1. Written request from property owner, either by letter or email transmission, requesting authorization to purchase property;

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2. ENV-160 from District Pre-Construction Engineer;
3. Prior project number whereby uneconomic remnant or Parcel was purchased;
4. County of property location; and
5. Further information of property location, i.e., parcel map, tax map, etc.

The ROW Coordinator submits the above information to the District Engineer for his/her approval, recommendation, and preparation of Request to Sale and submittal to the Right of Way Division.

Additionally, the ROW Coordinator shall have access to the XPT system. In the event the District Engineer, and/or purchaser requests status information, the ROW Coordinator may utilize the XPT system to obtain status, or may choose to refer them back to the Right of Way Division.

5.3 Eminent Domain

The ROW District Coordinator handles the following tasks relative to the Eminent Domain process:

- Receives copy of Eminent Domain Survey Request
- Tracks status and timelines of Eminent Domain Survey Request
- Tracks status of expected ROE date with ROW Attorney
- Provides status of ROEs necessary for project to ROW and District personnel
- Receives Eminent Domain court deposit check(s)
- Delivers Eminent Domain court deposit check(s) to appropriate Circuit Clerk's office
- Faxes and/or scans/emails deposit receipt to Legal Assistant and ROW Attorney and mails or hand-delivers original deposit receipt to the ROW Attorney.

**APPRAISAL,
APPRAISAL REVIEW
AND WAIVER
VALUATION FUNCTION**

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APPRAISAL, APPRAISAL REVIEW AND WAIVER VALUATION FUNCTION

The following procedures document the responsibilities of the Right of Way Division for appraising the property needed for public transportation projects.

Please review all pertinent chapters of the Asset Management Division Operations Manual, Roadway Design Operations Manual, Environmental Division Operations Manual and the Right of Way Division Operations Manual.

Oversight of appraisal and other property valuation-related functions in connection with developing and reporting estimates of the fair market value of real property are conducted by the Right of Way Division's Operations Section. The MDOT uses consultants to perform appraisals and review appraisals on all MDOT projects. The following are the oversight responsibilities of the Operations Administrator:

- Assign appraisals and appraisal reviews.
- Monitor appraisers and reviewer's assignments for compliance with MDOT policies, procedures and contract specifications for quality control to ensure recommended compensation is reasonable, appropriate and supported.
- Resolve appraisal and appraisal review problems and issues.
- Encourage appraisal reviewers to be proactive in their assigned work in order to deal with new information and potential time delaying issues and problems before the appraisal report is submitted.
- Ensure contract appraiser and reviewers are current with their professional training and qualified to accomplish the assigned work.
- Interpretation of official instructions and/or rules, contracts or agreements.
- Ensure proper distribution of work product to other MDOT Right of Way Sections and Divisions or MDOT consultants via Parcel Tracking.
- Return significantly incomplete product to the consultant and consider invoking contract provisions for dismissal of consultant.

Property valuation policies, processes, and procedures are governed by Federal Regulations, Mississippi Law, MDOT policies, and applicable appraisal standards.

As required by federal regulations at 23 CFR 710.201, this section of the Right of Way Operations Manual provides guidance and detailed information regarding policies, processes, procedures, and authorities applicable to real property valuation for governmental acquisition in the State of Mississippi.

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1.0 General Appraisal Policies

1.1 Authorities in Law and Regulation.

In addition to the requirements in general law and regulation, the Mississippi Department of Transportation complies with the following laws and regulation that are specific to real property appraisal and property valuation for governmental acquisition or disposal:

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 et seq., (the Uniform Act)
- Title 49, Code of Federal Regulations, part 24
 - § 24.102 Basic Acquisition Policies
 - § 24.103 Criteria for Appraisals
 - § 24.104 Review of Appraisals
 - § 24.2 Definitions
- Title 23, Code of Federal Regulations, part 710
 - § 710.403 Management
- Mississippi Code of 1972, Annotated
 - § 11-27-19 Evidence of value; award and interest
 - § 11-27-21 Damage to remainder; determination
 - § 43-37-3 Acquisition of real property in publicly funded projects
 - § 43-37-11 Buildings, structures and improvements to be acquired with land
 - § 65-1-123 Sale or disposal of unnecessary property
- § 73-34 Mississippi Real Estate Appraiser Licensing and Certification Act of 1990, as amended (the Act). The Act incorporates the Uniform Standards of Professional Practice (USPAP)¹
- Published Decisions of the Mississippi Supreme Court
- Case citation footnotes, excerpted text, and narrative explanations provided as applicable throughout this Chapter.

1.2 Qualifications of Appraisers and Review Appraisers.

The MDOT uses consultants to perform appraisals and review appraisals on all MDOT projects. In compliance with 49 CFR 24.103(d)(1)(2) MDOT requires that all appraisers be licensed and in good standing with the Mississippi Appraisal Board. Furthermore, MDOT requires that the appraiser of record be a licensed and certified general real estate appraiser with experience in appraising real estate and interest in real property for the purpose of right of way acquisition. MDOT requires that the review appraiser must be a licensed and certified general real estate appraiser with a

¹ USPAP, The Appraisal Foundation, Washington, D.C.

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minimum of six (6) years of experience in appraisal and/or appraisal review of real estate and interests in real property for right of way acquisition.

1.2 Appraisal Guide

1.3 MDOT Activities and Responsibilities that Require Real Property Valuation.

The following are real property valuation activities:

- The acquisition of real property for transportation projects
- Determination of Fair Market Value for donated properties
- The acquisition of real property through the process of eminent domain
- The disposal of excess property
- The purchase of real property that is not subject to the eminent domain process (voluntary transactions)

1.4 Cost Estimates

Upon request, the appraisal consultant or staff appraiser will provide cost estimates for proposed transportation projects based on the information about the project then available. The appraiser as one of the representatives of the ROW Division shall attend and participate in the field review and provide written reports to the ROW Division, as described below. As part of the appraiser's reports the appraiser shall provide comments and perspectives regarding the impacts and effects of the proposed right of way acquisitions, recommend possible design changes to mitigate the impacts and provide right of way cost estimate.

- A.** Phase I – Attend field review as a representative of the ROW Division
- B.** Phase II – Prepare and transmit a written field review report that contains the following:
 1. MDOT project number, list of persons in attendance, brief summary of project purpose and need, summary of plan recommended plan changes, and
 2. Right of Way cost estimate for land, improvements, damages, and uneconomic remnants
- C.** Phase III - Upon receipt of final ROW plans from MDOT, the appraiser shall review the final ROW plans and provide an update to the original field review report to include:
 1. Any original recommendations that were applied to the final ROW plans
 2. Any original recommendations that were not applied to the final ROW plans
 3. The update ROW cost estimate

1.5 Application of the Before and After Rule in Mississippi.

Mississippi's Before and After Rule (BAR) imposes unique constraints on the consideration of after condition remainder. Those legally imposed constraints can have a substantial impact on the calculation of the fair market value of the after condition remainder and, consequently, the

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calculation of just compensation. This section begins with the foundational statement of the BAR as given in the case MSHC v. Hillman in 1940:

“When part of a larger tract of land is taken for public use, the owner should be awarded the difference between the fair market value of the whole tract immediately before the taking, and the fair market value of the that remaining immediately after the taking, without considering general benefits or injuries resulting from the use to which the land is to be put, that are shared by the general public.”²

Beyond the basic statement of the BAR appearing above, the Mississippi Supreme Court has provided further comment in other citations that more clearly define its meaning. For instance:

“This rule leaves no room for a deduction for any enhancement of the remaining land due to the nature of the facility to be built on the land taken. Furthermore, the landowner is entitled to due compensation not only for the value of the property actually taken, but also for the damages, if any, which may result to the landowner as a consequence of the taking without any deduction there from on account of any supposed benefits incident to public use for which the application is made.”³

With respect to eminent domain appraisal, there have been changes to the Mississippi Code since Hillman. One of the most significant changes was with respect to the consideration of project influence on the market value of the property being appraised. § 43-37-3 of the Mississippi Code states:

“Any person, agency or other entity acquiring real property for any project or program in which public funds are used shall comply with the following policies: . . .” “(c) . . . Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.”⁴

The following statement from the Mississippi Code should also be considered as being an integral part of the definition of Mississippi’s BAR since “damages to the remainder,” if any, are to be included in the compensation figure that results from the application of the before and after appraisal process. § 11-27-21 of the Mississippi Code states:

“In determining damages, if any, to the remainder if less than the whole of a defendant’s interest in property is taken, nothing shall be deducted there from

²MSHC v. Hillman, 189 Miss. 850, 198 So. 565, (1940) Trustees of Wade Baptist Church v. MSHC, 469 So. 2d 1241, 1244 (Miss. 1985); Sanderson Farms, Inc. v. MSHC, 324 So. 2d 243, 244 (Miss. 1975); MSHC v. Hancock, 309 So. 2d 867, 871 (Miss. 1975); MSHC v. Hall, 174 So. 2d 488, 492 (Miss. 1965);

³ Mississippi Code 1972 § 11-27-21; Pearl River Water Supply District v. Wood, 252 Miss. 580, 172 So. 2d 196 (1965); MSHC v. Hillman, 189 Miss. 850, 198 So. 565 (1940); MSHC v. Hancock, 309 So.2d 867 (Miss. 1975)

⁴ Mississippi Code 1972 § 43-37-3

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on account of the supposed benefits incident to the public use for which the petitioner seeks to acquire the property.”⁵

1.6 Prevention of Conflicts of Interest⁶

Conflicts of interest are prevented in the appraisal process through the following procedures:

- No Appraiser or Review Appraiser, or person designated to perform a waiver valuation has any direct or indirect interest in the real property being appraised that would in any way conflict with the preparation or review of the appraisal.
- No Appraiser or Review Appraiser acts as an Acquisition Agent for real property that they have appraised.
- Compensation for appraisal or appraisal review work is not based on the amount of the valuation.
- No person shall attempt to unduly influence or coerce an appraiser, review appraiser or waiver valuation preparer regarding any valuation or other aspect of an appraisal, appraisal review or waiver valuation.
- Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work. For a program or project receiving Federal funding, the FHWA may waive this requirement if it determines it would create a hardship for the agency.

1.7 Scope of Work

The term scope of work defines the general parameters of the appraisal. It reflects the needs of the MDOT and the requirements of Federal and Federally-assisted program appraisal practice.

When project right of way plans and/or acquisition maps, depicting the parcel acquisition information for a specific project have been completed, they are distributed from the Roadway Design Division to the Right of Way Division (ROW) via Parcel Tracking. Using the project specific plans or maps, the ROW Assistant Division Administrator and ROW Operations Administrator determine the type of professional services that are needed, based on the requirements of the project. A scope of work for each parcel on the project is developed that determines the number and type of appraisals, appraisal review, and waiver valuations. This scope of work is used in the request for proposals from qualified appraisers and review appraisers.

Once the appraiser has been selected and the notice to proceed has been issued, the appraiser of record develops the appraisal scope of work for each appraisal assignment. During the appraisal development process, once the appraiser has inspected the property, a procedure is established whereby the appraiser may make a request for a change in the appraisal assignment from the initial scope of work described above. The request must have the concurrence of the review appraiser and the ROW Division Operations Administrator. As a result of this process the revised scope work is developed cooperatively by the assigned appraiser and the MDOT ROW-Division Operations Administrator.

⁵ Mississippi Code 1972 § 11-27-21

⁶49 CFR 24.102(n).

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1.8 Types of Property Valuation⁷

The format and level of documentation for a property valuation may vary depending on the complexity of the valuation problem. The main types of property valuations are discussed below:

A. Waiver Valuations.

An appraisal is not required if:

- (1) The owner is donating the property and releases MDOT from its obligation to appraise the property; or
- (2) MDOT determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000, or less, based on a review of available data.⁸ When an appraisal is determined to be unnecessary, the MDOT will prepare a waiver valuation. The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

In the latter case, a Waiver Valuation documents the estimated value. Parcels may be selected by MDOT for waiver valuation if the parcel is a non-complex land only acquisition with nominal improvements and the damages, if any, consist of cost-to-cure items only. The basis of the valuation is documented in the waiver valuation report.

The person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency. They also may be authorized by the Agency to act as a negotiator for real property. Additional information on Waiver Valuations can be found in Acquisition Chapter.

B. Preparation of Appraisals.

Acquisition of property generally requires completion of an appraisal to determine the offer of just compensation or FMVO. Exceptions are simplistic acquisitions acquired through Waiver Valuations and donations of property where the appraisal is waived. In all circumstances where the MDOT has determined that an appraisal is required, the Appraiser prepares either a narrative Appraisal Report of Land or Improved Property.

C. Narrative Appraisal Report. Acquisitions not valued via a Waiver Valuation are appraised via a Narrative Appraisal Report format. A list of the current narrative MDOT Appraisal Reports is as follows:

1. Appraisal Report of Land
2. Appraisal Report of Improved Property
3. Uneconomic Remnant Report
4. Appraisal Review Report
5. Uneconomic Remnant Review Report

⁷49 CFR 24.103(a).

⁸49 CFR 24.102(c).

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6. Appraisal Report of Excess Property
7. Appraisal Review Report of Excess Property
8. Restricted Use Appraisal Report
9. Appraisal Review Memorandum Report

D. All Appraisals Reports. All appraisals must be completed on the most current MDOT Appraisal Forms or on Forms approved by MDOT. All MDOT Appraisal Forms are compliant with the requirements of the Uniform Standards of Professional Appraisal Practice and with the requirements of 49 CFR 24.103 and 24.104. For a guide to the specific requirements that should be considered when completing the MDOT Appraisal Reports the MDOT Right of Way Division Appraisal Guide should be followed.

A properly documented real property before and after appraisal report shall include the valuation of compensable interests pertaining to the property appraised. As appropriate for the property appraised, interests valued include: the fee simple interest, leased fee, and leasehold interests, easement interests, access rights and any other interests in real property compensable under the laws of the State of Mississippi. A properly documented appraisal report shall also include, if applicable, the appraiser's determination as to whether the remainder property has been rendered an uneconomic remnant as defined by the Uniform Act. If applicable, an Uneconomic Remnant Report shall be included with the appraisal report and is to be considered a part of the appraisal report.

1.9 Appraisal Review Requirements.

MDOT's appraisal review process includes, at a minimum, the following procedures:⁹

- Assurance that a qualified Review Appraiser examines all appraisals to assure that they meet applicable appraisal requirements.¹⁰
- Delivery of a written report by the Review Appraiser that identifies the appraisal report(s) reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s)¹¹.
- If the Review Appraiser is unable to recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the Review Appraiser may develop appraisal documentation either independently or by reference to acceptable relevant information developed by others and in accordance with MDOT's Review Appraisal procedures and USPAP to support a recommended value.¹²

⁹49 CFR 24.104.

¹⁰ 49 CFR 24.104(a)

¹¹ 49 CFR 24.104(c)

¹² 49 CFR 24.104(b)

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2.0 Appraisal Preparation Procedures (Pre-Owner Contact)

2.1 Preparation of the Comparable Sales Brochure

The appraiser shall prepare the Comparable Sales Brochure (CSB)(also referred to as the “Market Data Brochure”) that includes the following: a record search list showing the Sections, Townships and Ranges that were searched for comparable sales along with the applicable date range of the records searched, a Comparable Sales Map, showing the location of the all sales, summary sheet of sales, and a completed Comparable Sales Data Form for each confirmed comparable sale record in the CSB. As each comparable sale is confirmed, the electronic record shall be entered in to the MDOT parcel tracking system.

Upon the initial completion of the CSB, a hardcopy shall be prepared by the appraiser and furnished to the review appraiser for review and acceptance before any appraisal development and reporting may proceed. During the project appraisal development and reporting phase, the appraiser shall update the CSB as new sales data is verified and confirmed. Upon completion and acceptance of all original project appraisals by the review appraiser, the appraiser shall provide the MDOT ROW Division Operations Administrator with an electronic copy of the CSB including any associated sale data and record search list used in the appraisal process. The appraiser shall also be responsible for entering all sales data in to the MDOT parcel tracking system.

3.0 Notice to Property Owner.¹³

3.1 Initial Property Owner Notification.

As soon as feasible, the Appraiser notifies the property owner by telephone, in person, or by registered/certified mail, of the MDOT's interest in acquiring the real property, and the property owner's basic protections under law which are to be provided in writing (the MDOT Citizen's ROW Guide).¹⁴ In the initial phone call, in-person contact, or letter to the property owner [Owner-Appraiser Contact Letter], the Appraiser shall include the following items:

- Identifies themselves as an Appraiser acting on behalf of MDOT and provides their name, title and other contact information, as appropriate.
- Explains that MDOT is developing a transportation project and describe the acquisition of property that is needed.¹⁵
- Requests permission to inspect the property. The property owner or their designated representative is to be offered the opportunity to accompany the Appraiser during the property inspection.¹⁶ If relocation is a factor, the Relocation Agent is to be notified of the time and date of the property owner contact and inspection date.

¹³ 49 CFR 24.102(b)

¹⁴ 49 CFR 24.102(b).

¹⁵ 49 CFR 24.102(b)

¹⁶ 49 CFR 24.102(c).

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- If the Appraiser or is unable to make contact with the property owner or their designated representative via telephone or in person, an initial contact package is prepared. This initial contact package is personally served, or sent by certified or registered first-class mail, return receipt requested, and documented as part of the appraisal report. Each notice shall indicate the name and telephone number of the Appraiser who may be contacted for answers to questions or other needed help.¹⁷

3.2 Property Inspection.

The property owner must be contacted by registered/certified mail if the owner, or their representative, is not available to meet in person (see Section 4.1 above for the documents that must be mailed or given to the property owner).¹⁸ The procedures for the property owner contact are provided below:

- Provide property owner with the *Citizen's Right of Way Acquisition Guide*, a copy of the highlighted ROW Acquisition Map for their parcel, and a business card. Review the *Citizen's Right of Way Acquisition Guide* and ROW Acquisition Map with the property owner and respond to the owner's questions.
- Determine whether the property owner wants to accompany the Appraiser during the inspection. Inspect the property and conduct the following activities:
 - Measure improvements
 - Photograph acquisition area, surrounding improvements, and road frontage
 - Make notes to determine real versus personal property
- Make notes to determine real versus personal property, if any potential contaminated sites, historic sites, or other environmentally sensitive areas are noted, the Appraiser shall notify the District Coordinator by memorandum who will forward to the MDOT Environmental Coordinator.

3.3 Personal and Real Property Nature of Improvements.

The Appraiser and the relocation agent identify and coordinate determinations as to whether specific improvement structures are to be classified as personal property or real property. Every effort must be made to do this prior to, or at the time of, the appraisal.¹⁹ The Appraiser notes the real or personal property status of each improvement in the appraisal report. The Appraiser documents all improvements, regardless of whether they have "contributory value."

For mobile homes, determination of the real or personal nature of the improvement is made based on the following issues:

- (1) How is the mobile home affixed to the property?
- (2) Have the wheels and axles of the mobile home been removed?
- (3) Does the mobile homeowner file for homestead exemption at the County Courthouse?

¹⁷ 49 CFR 24.5

¹⁸ 49 CFR 24.102(b)

¹⁹ 49 CFR 24.205(c)(2)(i)(c)

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- (4) Does the mobile home have any additions to the original structure (e.g., rooms, deck, roof)?

The Right of Way Division has access to the real and personal property classification information in the appraisal report.

3.4 Changes or Issues Identified during appraisal process or in the Property Owner Interview.

If title issues, additional interests, mapping, or a need for other changes are identified during the appraisal process or in the property owner meeting, the Appraiser transmits a memorandum describing the issue or need for a change to the Review Appraiser for concurrence. Relevant issues and need for changes may include, but are not limited to name or ownership changes, property line changes, deaths, wills, X-Deed or Q-Deed requests. If the Review Appraiser concurs with the Appraiser's identification of the issue or need for change, the Review Appraiser forwards the memorandum to the District Coordinator who will distribute the memorandum and supporting documents to the Title Section.

4.0 General Appraisal Documentation Practices

4.1 Identification of Environmental Concerns, Historic Sites, and Other Environmentally Sensitive Areas.

If any environmental concerns (e.g., gas station, industrial sites, farms, back washing sites, junkyards, funeral homes, dry cleaners, aerial applicators (crop dusters), oil companies, etc.), historic sites, water wells or other environmentally sensitive areas are identified during the appraisal process, the Appraiser shall notify the District Coordinator, who, in turn, notifies the ROW Division Operations Administrator. The ROW Division Operations Administrator will coordinate with the Environmental Coordinator of the MDOT – Environmental Division as appropriate for processing.

4.2 Influence of the Project on Just Compensation.²⁰

Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.²¹

4.3 Cost to Cure.

Under long-standing precedent expressed repeatedly in Mississippi case law, a property owner may be entitled to compensation for the cost of restoring specific functional utility(s) that is lost

²⁰49 CFR 24.103.

²¹ Mississippi Code 1972 § 43-37-3(c)

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as a consequence of the acquisition. The principle for inclusion of “cost-to-cure” in the calculation of compensation to the property owner comes from Mississippi case law. However, the use of “cost-to-cure” must adhere to certain intent. The Mississippi Supreme Court has stated:

“Of course, in determining “after acquired value” of the property, the jury is authorized to take into consideration the necessity of rebuilding fences and wells, the necessity of relocating roads, and similar items. These items, however, are all part of the depreciated value of the property in the manner in which it has been used or for which it is best adapted.”²²

The phrases: “*the necessity of rebuilding....in the manner in which it has been used or for which it is best adapted*” are the key. In other words, “cost-to-cure” is about restoring a specific functional utility that is being lost as a consequence of the acquisition. The most commonly encountered example would be agricultural fencing that serves a livestock containment function. If a portion of the owner’s existing fence is within the acquisition area and will be destroyed, then the livestock containment function that existed in the before condition will be lost. In order to restore the functional utility of livestock containment, it will be necessary for the owner to construct new fencing. In the case of fencing, this principle has also been extended by the MSC to cases in which the fencing served only to show a property boundary or to prevent others from entering property.²³ Under Mississippi Law, the cost to restore such functional utility is to be included as part of the “depreciation” of the remainder property’s after condition valuation. This principle is applicable to other items, as noted in the excerpted text of the decision above.

4.4 Partial Acquisitions and Uneconomic Remnants (X-Deeds).

In the case of the partial acquisition of a property, the compensation for the property being acquired and the compensation for damages, if any, to the remaining property are separately stated in the FMVO.²⁴

The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner’s property, and which the MDOT has determined has little or no value or utility to the owner.²⁵ If the partial acquisition is determined by the Appraiser to leave an uneconomic remnant, the Appraiser transmits a memorandum to the Review Appraiser for concurrence. If the Review Appraiser concurs, the Review Appraiser transmits the memorandum request, along with his/her concurrence, to the District Coordinator to establish an X-Deed in order to facilitate making an offer to the owner to acquire the uneconomic remnant. The District Coordinator distributes the memorandum as appropriate. The memorandum prepared by the appraiser is to include the following information.

²²Emerson v. MSHC, 208 So.2d 441; Additional citations for this principle included MSHC v. Strong, 240 Miss. 756, 129 So.2d 349 (1961); MSHC v. Hall, 252 Miss. 863, 174 So.2d 488 (1965); MSHC v. Colonial Inn, Inc., 246 Miss. 422, 149 So.2d 851 (1963).

²³Oughton v. Gaddis, 783 So.2d 390 (1996)

²⁴49 CFR 24.102(e)(1).

²⁵ 49 CFR 24.2(a)(27)

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- Description of the area for which the X-Deed is needed;
- Explanation of why an X-Deed is being requested;
- Project number, file number, property owner, county, and physical location;
- A copy of the ROW Acquisition Map with the X-Deed area highlighted

4.5 Quitclaim Deeds.

Quitclaim Deeds (Q-Deed) convey only what present interest a person or other legal entity may have in a particular property without making any representations or warranties of title. Q-Deeds are used to acquire interests in property that are not fee simple, such as leases, easement interests, purchase options, timber interests, right of way, or other non-fee interests in real property.

4.6 Private Water Wells and Private Sewers

If there is private water well or private sewer on the property, the Appraiser includes it in the appraisal and completes the following:

1. Gathers information on the water well/sewer including a list of households and businesses served by the water well/sewer and the location of the water well/sewer.
2. Prepares a memorandum to the District Coordinator that lists the impacted households and businesses, the station number, and other relevant information. The District Coordinator shall notify the MDOT Project Engineer of the water wells and sewer and the Environmental Operations Coordinator of the identified water well(s). The well(s) shall be plugged and abandoned in accordance with the Mississippi Department of Environmental Quality, Office of Land and Water Resources, prior to construction.
3. If a single party is affected, prepares a cost to cure in order to compensate the property owner. A cost to cure, however, is only prepared if the well contributes to highest and best use of the property.
4. If multiple parties are affected by the water well, prepares a Q-Deed [ROW 640D] for each party. All parties are compensated. In most circumstances, this compensation is handled through an administrative adjustment.

4.7 Property Line Overlap

If an Appraiser finds a property line overlap, the Appraiser notifies the ROW District Coordinator to contact the Maps & Deeds Section of RWD for an investigation of the overlap. If there is an overlap, the Maps & Deeds Section of RWD corrects the ROW Acquisition Map and the deed(s). The Appraisal Section determines compensation for property owners on a case-by-case basis.

4.8 Crop Irrigation Systems

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Crop irrigation systems consist of real and personal property components. Compensation associated with the acquisition of, or impact to, irrigation systems is normally addressed in the context of the market value of the land acquired and the reduction in value, if any, to the remainder tract that the irrigation system served.

If the well-head for the irrigation system is being acquired, then the real property elements of the system are addressed on the basis of the cost to reestablish irrigation to the remainder property, (cost-to-cure). If there remain portions of the remainder property that cannot have irrigation restored, then the measure of damages to that portion is the difference between market value of irrigated lands as compared to the market value of non-irrigated lands.

If the well-head is not being acquired, then and certain components of the irrigation system may need to be relocated, and the Appraiser transmits a notification to the Review Appraiser. With concurrence of the Review Appraiser, the notification is forwarded to the Relocation Section.

If the crop irrigation system is owned by an operator/tenant, any compensation allocated to the tenant-owner for reestablishment or loss of the system is based on the terms of the lease agreement and is included in the Q-Deed [ROW 640D] established for the tenant-owner.

4.9 Outdoor Advertising Signs, (OAS, Billboards)

OAS structures involve a variety of considerations in the appraisal process. In most situations, the OAS structure is owned by an advertising company that leases the site on which the sign is located. Upon arranging permission for a site inspection with the fee owner of the subject property, the OAS is inspected and checked for construction style, encroachment, and clearance from existing ROW, permit tags, electrical service, size, condition, and accessibility.

Mississippi case law directs the appraiser's consideration of the property status of the OAS structure. One of the court cases regarding OAS valuation is MDOT vs. Lamar No (684 So. 2d 601 Miss.1996). In that decision, the Mississippi Supreme Court ruled that outdoor signs are structures and should be valued accordingly. The decision also stated that if the sign can be relocated to the remaining land with same exposure then the cost of relocating the sign should be considered as an applicable measure of compensation.

If it is determined that it is possible for the OAS to be permitted by MDOT and relocated to the remainder tract, the appraiser must contact the sign company/owner to find out if relocation of the OAS is acceptable to the sign owner. If the sign owner is agreeable to relocation, then compensation for the sign structure is handled by the ROW Division, Relocation Section, as personal property. If the OAS company/owner is not agreeable to relocation, or it is not possible to relocate the OAS structure to the remainder tract, and then the sign structure is valued by the appraiser as a real property item.

4.10 Underground Storage Tanks (UST) and Associated Equipment

All USTs and associated underground equipment are to be appraised as real property. Associated equipment includes:

1. Piping leading from the UST to the pump island.

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2. Vent pipes, access risers, riser covers
3. Monitoring wells.
4. Pipes or lines between UST's and pump islands, monitoring wells, or monitoring equipment.

The phrase "Associated Equipment" does not include the fuel or fluid dispensing units (the above-ground pump units). Fuel dispensing pumps are to be considered personal property and, while they are not included in the valuation of real property, they are to be identified as personal property items in the appropriate section of the appraisal report as applicable.

Prior to initiating the appraisal process for any property on a project each appraiser should log on to the Parcel Tracking System (PTS) and review the identification of contaminated sites for the project to which you are assigned. If the site has not been cleared for acquisition, the appraiser shall prepare a memorandum to the ROW District Coordinator that serves as notification of the lack of clearance for the site in PTS. A review of the project's environmental document should also be made by the appraiser, specifically, the section on potential contaminated sites. Normally, this will identify properties where USTs have been noted by MDOT environmental. Upon identifying the presence of USTs on any property during property inspection, the assigned appraiser shall prepare and submit to the ROW District Coordinator a memorandum identifying the presence of USTs.

For items such as USTs, and their associated underground equipment, the actual condition of such facilities cannot be known because they are not available for visual inspection and equipment testing is not performed as a part of the MDOT appraisal process. Information on the existence, age, and condition of USTs and associated equipment is first obtained from the property owner; the owner's designated representative, or the lessee of the property. If the underground equipment is owned by a tenant oil company or other entity, the appraiser shall contact the owner of the equipment to obtain information. In addition to the property owner or tenant owner, information on USTs at all registered sites in Mississippi is available from the Mississippi Department of Environmental Quality through the following link:

<http://muster.deq.state.ms.us/webreportapplication/USTSearchWF.aspx>

The information available at this site is substantial and includes the name of the owner, number and size of tanks, date of installation, operational status, etc. The information available from the property owner, tenant owner, or MDEQ should be included in the appraisal report and the source (Owner, tenant, or MDEQ) clearly labeled. Ultimately, the condition of such underground equipment must be assumed based on information provided by others. The assumption of condition for USTs and associated equipment shall be stated in the appraisal report as an "Extraordinary Assumption" in the appropriate section of the report per the following language:

- *There exists on the subject property # underground storage tank(s) and associated underground equipment. Because these items are to be valued as real property, but are underground and not available for viewing or assessment, an assumption must be made regarding their condition for purposes of real property valuation. Unless otherwise*

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indicated in this report, all underground equipment is assumed to be in working order consistent with age. This constitutes an extraordinary assumption.

- *The physical information for the subject site and the improvements as reported to us by others is assumed to be true and correct and constitutes an extraordinary assumption.*

USTs and associated equipment are often involved in a variety of ownership arrangements. At times the fee owner of the property also owns the USTs and related equipment. In other ownership arrangements the property is in the name of one corporation while the fuel storage and dispensing equipment is in the name of another. In still others, the fee owner of the property has a business arrangement or “agreement” whereby an oil “jobber” or company will put the USTs and related equipment in place on a property and the property owner or a lessee will collect a fee for each gallon of product sold. Because arrangement details regarding USTs and equipment differ from property to property, and the USTs are to be appraised as real property, it is essential that the assigned appraiser secure detailed information regarding the ownership of USTs and associated equipment on the property. If the owner of the USTs and associated equipment is not the same as the fee owner of the land, the appraiser shall compile all available information including copies of leases or agreements as applicable and prepare a memorandum to the ROW District Coordinator requesting a Q-deed for tenant-owned real property.

If a copy of the lease or agreement regarding the USTs and equipment cannot be obtained or if the lease/agreement is vague and/or incomplete with respect to what items are owned by the tenant and the fee owner of the land acknowledges that the USTs, and/or other items, are owned by another, the appraiser should obtain a signed “*Acknowledgment of Tenant-Owned Real Property*” (located under ROW Division, Appraisal Forms on MDOT@work web site) from the fee owner of the property identifying tenant-owned real property items, (. Upon obtaining the owner’s signed acknowledgment for tenant-owned real property, a memorandum requesting a Q-deed is to be prepared and transmitted to the ROW District Coordinator with the original acknowledgment form attached.

The overwhelming majority of the MDOT’s acquisitions are partial acquisitions. If a partial acquisition includes a UST and/or a portion of its associated facilities, the appraiser must determine if the acquisition of that item can be handled on a cost-to-cure basis. This will involve a variety of considerations including setbacks, local zoning, space availability, traffic routing, clearances, etc., etc. These opinions will have to be rendered by the appraiser on a case by case basis. Items potentially eligible to be handled on a cost-to-cure basis include, but are not limited to: USTs, piping, monitoring wells, electrical conduit lines, monitoring lines, access risers and covers, parking pads, vents, walks, etc. This is not an all-inclusive list because the individual characteristics of a particular site, in the context of the specifics of the partial acquisition, will determine what is and is not curable.

If the partial acquisition includes a UST and/or a portion of its associated facilities, and the loss of those items cannot be dealt with on a cost-to-cure basis, then the appraised value of the item shall be its contributory value to the property in place, as determined by cost, sales, or income approach appraisal procedures.

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4.11 Easements

A. Temporary Easements.

Roadway Design prepares Temporary Easement instruments as necessary for land needed during the project construction period for construction purposes, but not needed as permanent right of way. The Appraiser calculates compensation for the easement based on rental of the land within the temporary easement area for a period of five (5) years.

B. Permanent Easements.

The acquisition of a Permanent Easement is sometimes required. The impact to the value of the owner's property can vary substantially based on the specific characteristics of the land and the purpose of the easement. The Appraiser calculates compensation for the easement on a case by case basis.

5.0 Appraisal Review Practices

5.1 Agency Official Authorized to Establish the Amount Believed to be Just Compensation.

The MDOT authorizes the ROW Division Operations Administrator to act for the Agency and, based on the recommended appraisal by a consulting review appraiser; establish the Amount Believed to be Just Compensation.²⁶

5.2 Review Appraiser Field Inspection.

The Review Appraiser performs a physical inspection of the appraised site to visually inspect the acquisition area, any improvements, and comparable sales and compare these to information provided in the appraisal report. The Review Appraiser verifies that all improvements are included in the appraisal sketch or report. All items that can affect the value of the property being acquired and the effect on the remainder are reviewed. If significant errors or omissions are encountered, they are referred to the Appraiser via an Appraisal Deficiency Form for correction.

5.3 Appraisal Review Process and Documentation.

Before acceptance of an appraisal, the Review Appraiser determines that the Appraiser's documentation, including valuation data and the analyses of that data, supports the Appraiser's opinion of value. The qualifications of the Review Appraiser and the level of explanation of the basis for the Review Appraiser's recommendation of the appraisal report depend on the complexity of the appraisal problem. The Review Appraiser completes the following forms during the review:

- Review Appraiser's Estimate of Fair Market Value

²⁶ 49 CFR 24.102(d)

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- Appraisal Summary
- Statement of Assumptions and Limiting Conditions of Review Appraiser
- Certificate of Review Appraiser
- Reviewer's Determinations (if applicable)

All Appraisals are examined for the following:

- Calculations are mathematically correct
- Completeness; any Sections marked "non-applicable" are justified
- Reasoning is clear and documentation is complete
- Assumptions about fact, law, and proposed construction are correct
- Logical consistency in evaluation is maintained throughout the area or project
- Value conclusions are fully supported and based on accepted appraisal practice
- Proper property owner contact was made
- Uneconomic remnants are properly identified in the appraisal report and accompanied by an "Uneconomic Remnant Report" as a separate document

The Review Appraiser examines all appraisals to ensure that they meet applicable appraisal requirements and, prior to recommendation of approval, obtains necessary corrections or revisions. While the Review Appraiser does not make any changes in the appraisal report document, they may make note of and correct minor mathematical errors in the appraisal review report where such errors do not significantly affect the final value conclusions. The Review Appraiser also may supplement the appraisal where minor factual data has been omitted. The Review Appraiser initials and dates any correction and/or factual data supplements to an appraisal report.

The Review Appraiser may address minor revisions that have been made to the ROW plans and maps and deeds by memorandum or letter report rather than requiring that a request for a revisions be sent back to the appraiser for a revised appraisal report.

5.4 Review Appraiser Approval and Independent Estimate.

A Review Appraiser is authorized to recommend approval of an appraisal report as the basis for the establishment of just compensation, (See 6.1 authorizations). When evaluating the estimate of just compensation in the appraisal report under review, the Review Appraiser may recommend the value estimated by the Appraiser or make an independent estimate of value based on the appraisal report documentation. If the Review Appraiser is unable to recommend an appraisal as an adequate basis for the establishment of the amount believed to be just compensation and obtaining an additional appraisal is impractical, the Review Appraiser may accept the appraisal and develop appraisal documentation to support his or her own recommended value as part of the Appraisal Review²⁷. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved/recommended

²⁷ 49 CFR 24.104(b)

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appraisal of the fair market value for Uniform Act at 42 USC Chapter 61 Section 4651(3).²⁸The Review Appraiser's reasons for not recommending the original appraisal are documented in the narrative review report. If the Review Appraiser develops an independent value on a parcel and that parcel is later condemned, then the Review Appraiser must complete a full appraisal report for this parcel and will testify to the value at the trial.

The Review Appraiser's certification of the recommended value of the property is set forth in Appraisal Review Report, identifying the appraisal reports reviewed and explaining the basis for approval. Damages to any remaining property also are identified in the statement.

5.5 File Retention.

A copy of the Appraisal Report and associated work file must be retained by the appraiser for a period of at least five (5) years after the preparation of an appraisal report or at least two (2) years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.²⁹

5.6 Property Owner Appraisal.

If the owner expresses intent to provide an appraisal report, the MDOT will provide the owner and/or his/her appraiser Agency appraisal requirements and inform them that their appraisal should be based on those requirements.³⁰If a property owner provides a privately obtained appraisal to a ROW Agent or appraiser for consideration, the ROW Agent or appraiser shall transmit the property owner's appraisal report to the Review Appraiser:³¹ The following steps for completing this are:

- (1) The owner's transmission of the appraisal report to the MDOT, or a representative of the MDOT, makes that appraisal report a State Record and a part of the parcel file.
- (2) The Review Appraiser shall conduct an administrative evaluation of the owner's presentation.
- (3) The Review Appraiser shall transmit an administrative evaluation to the District Coordinator.

5.7 Updating the Offer of Just Compensation.³²

Information presented by the property owner (including the property owner's appraisal), or a material change in the character or condition of the property, may indicate the need for a new appraisal. All relevant facts and circumstances of such new information, the property owner's information, or material change in the character or condition of property are considered by a Review Appraiser or an MDOT official delegated the authority for the establishment of just compensation.

²⁸ 49 CFR 24.104(b) Appendix

²⁹ USPAP 2014/2015 Record Keeping Rule

³⁰ 49 CFR 24.102(f) Appendix

³¹ 49 CFR 24.102(f)

³² 49 CFR 24.102(g)

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If the latest appraisal information indicates that a change in the market value is warranted, MDOT promptly reestablishes just compensation and offers that amount to the property owner in writing.

6.0 Appraisals for Court

This section details the process for completing appraisals in preparation for eminent domain court testimony.

6.1 Receipt of Appraisal for Court Request.

The ROW Legal Section initiates the appraisal process for condemnation cases. The Legal Section submits a Court Appraisal Package to the ROW Division Operations Administrator requesting that an appraisal for Court be completed within 60 days of the first business day following the filing of the case with the Court. The ROW Division Operations Administrator provides this notification to the assigned Appraiser requesting the Appraiser prepare for court testimony.

6.2 Materials Furnished to the Appraiser.

The Court Appraisal Package furnished to the Appraiser contains the following:

- Court appraisal memorandum
- Exhibit A (most current legal description of the acquisition area)
- Two (2) ROW Acquisition Map (most current available, should match the acreage on the deed)

6.3 Reviews Comparable Sales Brochure/Record Search Sheets.

The Appraiser reviews the Record Search Sheets to determine dates and locations that county records were checked on the original project and subsequent updates of sales data by other appraisers. Record search sheets are stored electronically in the MDOT Sales Database of parcel tracking. Newly verified sales are to be entered into the MDOT Sales Database of parcel tracking.

6.4 Parcel Inspection.

The Appraiser of record must be the Appraiser who physically inspects the subject property during the court appraisal process. If the appraiser of record is in need of physically traversing the property for the court appraisal process, the appraiser shall contact the attorney retained by the MDOT for the case before entering that property.

6.5 Appraisal for Eminent Domain Court Testimony.

The Appraiser performs an appraisal in preparation for giving court testimony in the Special Court of Eminent Domain. The date of value for the appraisal must be the date of filing. Confirmation with the Trial Attorney is required.

The appraisal for court must be a total "Before and After" appraisal, or an update of the original before and after appraisal. If a total "Before and After" appraisal was not done originally, then, it must be prepared at this time. To complete a total "Before and After" appraisal, all improvements on the subject property must be valued. Some properties are large, divided by roads, or contain improvements that are not impacted. Valuation of certain components of the total property may

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not have to be valued if both the MDOT's attorney and the Landowner's attorney can reach an agreement that it is in the best interest of both parties and not necessary to value certain items. Such an agreement is referred to as a "Stipulation". Unless a stipulation can be obtained through agreement of the attorneys representing the MDOT and the property owner, the appraisal for court must value the Total Property including ALL Improvements. The total "Before and After" Appraisal must contain the following:

- Memorandum summarizing any changes from the original project appraisal
- Discovery Material Form, completed and attached to the Appraisal
- Applicable appraisal forms
- One (1) copy of the ROW Acquisition Map or condemnation plat

6.6 Court Appraisal Review.

Upon completion of the court appraisal, the Appraiser transmits the completed appraisal report, along with Discovery Form, and supporting documents, to the Review Appraiser. The court appraisal is reviewed for court testimony.

Once the Appraisal for court is reviewed and accepted for court testimony by the Review Appraiser, the Appraisal Report, and associated documents, are stored on the MDOT's Parcel Tracking System and is available to all Sections of the ROW Division as needed.

7.0 Other Appraisal Procedures

7.1 Real Property Disposal Appraisal

The Property Disposal Coordinator (PDC) sends requests for appraisal and appraisal review of real property disposal to the Operations Administrator. The appraisal is used to determine fair market value or rent for the real property. The assigned appraiser must be a state licensed or certified appraiser. The request from PDC should include the District Engineer's recommendation for disposal, the requesting party's written request, survey, quitclaim deed and ROW map. The Operations Administrator will return the appraisal and appraisal review to the PDC upon completion of both products.

7.2 Hostile Landowner

MDOT staff members do not go onto the property of a property owner that has forbidden access to their property. If the property owner refuses to give permission to enter the property or is verbally hostile toward MDOT staff, explain to the property owner that Appraiser cannot come onto the property and an appraisal will be completed from the public right of way. If a hostile landowner is encountered, the Appraiser gathers all available information on the improvements from the property cards (available from count for

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assessor's office and provides property measurements, etc.) and, if available, the County Tax Assessor's Office.

All hostile property owners are reported to the ROW Division Operations Administrator and District Coordinator immediately. The Appraiser also documents the hostile contact on the contact report of the appraisal so that subsequent Field Agents are aware of hostile landowner. The Appraiser also provides a written or verbal notice to other Field Agents about the hostile landowner.

7.3 Administrative Settlement

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement.

All relevant facts and circumstances should be considered by an MDOT official delegated this authority. Appraisers, including Review Appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.³³

7.4 Protective Rents

1. Protective Rents may be offered and are designed to compensate owners for lost rental income when their tenants vacate the premises prior to the conveyance of title in response to our right of way acquisition process. Protective Rents benefit MDOT by mitigating the costs associated with relocation, including moving expenses and supplemental housing payments.
2. The specific issues that should be addressed in the plan include: 1) criteria for implementing the policy, 2) period owner would be compensated for keeping the units vacant, 3) method for determining amount of compensation, 4) timing of the offer to owner, 5) timing of payment to owner.
3. Protective Rents are authorized upon the approval of the Right of Way Division Director.
4. MDOT will execute a lease agreement with the current property owner(s) with the consideration for the lease agreement being assessed as an "Administrative Adjustment" Consideration for the Lease Agreement will be determined based on current market rental rates provided by the appraiser and review appraiser assigned to the project.
5. The Right of Way Operations Administrator will provide a copy of the completed Lease Agreement form which will be presented to an executed by the current property owner and Right of Way Division Director. The acquisition consultant/agent assigned

³³ 49 CFR 24.102 (I) Appendix

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to the project will provide a copy of the completed Lease Agreement to the current property owner. The completed original Lease Agreement will be scanned to the Parcel Tracking parcel file room and the original will be retained with the recorded deed files in the Right of Way Division Administrator's Office.

The Property Management Section will provide oversight and supervision of the leased property until it has been acquired.

**FEDERAL LAND
TRANSFERS**

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FEDERAL LAND TRANSFERS

The following procedures document the responsibilities of the Operation Section for transferring federal land to MDOT, as needed, for transportation projects. As a reference, see FHWA – Federal Land Transfer Manual for additional information.

Please review all pertinent chapters in the Roadway Design Operations Manual and the Right of Way Operations Manual.

1. Initiation of Federal Land Transfer Process

1.1 Identification of Federal Land Transfer Needs

When the Roadway Design Division (RWD) - Survey, Maps & Deeds Section (SMD) generates the deeds and maps for a project, they identify those parcels that are located on land owned by federal agencies.

1.2 Generate Highway Easement Deed for Federal Land Transfers

For federally owned land, the RWD - Survey, Maps & Deeds Section generates a highway easement deed. Federal regulations (23 CFR 710.601(g) require that deeds for conveyance of lands or interests in lands owned by the United States be prepared by MDOT and certified as sufficient to convey title by an attorney licensed within the State of Mississippi. The deed must contain clauses required by FHWA and 49 CFR 21.7(a)(2). After MDOT prepares the deed, MDOT submits the proposed deed with the certification to FHWA for review and execution and delivery to the transferring agency for approval and execution back to FHWA who in turn delivers a transfer of the land back to the MDOT for final execution and recording.

1.3 Notification of and Provision of Materials to Acquisition Section

The RWD - Survey, Maps & Deeds Section provides the maps and deed descriptions of these parcels to the ROW Operation Section.

2. Federal Land Transfer Application Process

2.1 Federal Land Transfer Application Preparation

The Operations Section prepares the Federal Land Transfer Application Letter for FHWA in accordance with 23 CFR 710.601(d). The Federal Land Transfer Application Letter includes the following information:

1. Purpose for which the land is to be used;
2. Estate or interest in the land required for the project;
3. Federal-aid project number or other appropriate references;
4. Name of the federal agency exercising jurisdiction over the land and identity of the installation or activity in possession of the land;
5. Commitment to construct the highway on or to remove materials from the lands to be transferred within a period of not more than 10 years following the transfer of the lands to the State of Mississippi;
6. Letter from agency attorney certifying that the conveyance is sufficient to convey an interest to the agency for the construction of the project.
7. Map showing the survey of the lands to be acquired;
8. Legal description of the lands desired; and
9. Statement of compliance with the National Environmental Policy Act of 1969 (42 USC 4332, et seq.) and any other applicable federal environmental laws, including the National Historic Preservation Act (16 USC 470(f)), and 23 USC 138.

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2.2 Federal Land Transfer Application Distribution

The Federal Land Transfer Application Letter is submitted to FHWA, except in the case of certain federal agencies that have special legislation for granting rights-of-way over lands under their jurisdictions and may proceed under their own laws. The Operations Section sends the Federal Land Transfer Application Letter to the FHWA Mississippi Division Administrator and a copy is delivered to MDOT's ROW Operations Administrator for informational purposes.

2.3 Federal Land Transfer Application Processing

If the Federal Land Transfer Application Letter is submitted to FHWA, FHWA processes the application in accordance with 23 CFR 710.601(e). If FHWA concurs with the need for the transfer, the land-owning agency is notified and a right-of-entry is requested.

In cases of federal agencies with special legislation, MDOT submits the Federal Land Transfer Application Letter directly to that federal agency. Although they have special authority, the federal agencies sometimes wish to proceed under 23 USC 107(d) and 317 and, in such cases, the Federal Land Transfer Application Letter is filed with FHWA. The federal agencies that have special authority, which permits MDOT to file its application directly, include the following:

- **Bureau of Indian Affairs.** Federal Land Transfer Application Letter is submitted directly to the Bureau of Indian Affairs, Washington DC, for rights of way across tribal lands or individually owned lands in trust by the US or encumbered by federal restrictions. All other lands held by the Bureau of Indian Affairs are transferred under 23 USC 107(d) and 317.
- **Army or Air Force.** Mississippi submits its Federal Land Transfer Application Letter directly to the installation commander and the appropriate District Engineer of the Army Corps of Engineers.
- **Navy.** Federal Land Transfer Application Letter is submitted directly to the District Public Works Officer of the Naval District involved.
- **Veterans Administration.** Federal Land Transfer Application Letter is submitted directly to the Director of the Veterans Administration, Washington DC.

If the land-owning agency requests certain stipulations be added to the highway easement deed, these stipulations are included in the letter of consent to the FHWA's Mississippi Division executed by the land-owning agency. Once FHWA obtains a Letter of Consent from the land-owning agency, they forward that letter to the Assistant Director of the Right of Way Division. During this process, the Operations Section communicates with FHWA's Mississippi Division Administrator for status updates and other requests.

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3. Federal Land Transfer Approval and Finalizing

3.1 Highway Easement Deed Approval

Upon receiving the Letter of Consent from the land-owning agency, the highway easement deed is approved by the following entities:

- Mississippi Transportation Commission
- MDOT's Executive Director
- FHWA's Mississippi Division Administrator on behalf of itself and the land-owning agency (except for the Bureau of Indian Affairs, the Army, the Navy, and the Air Force), and
- Land owning agency (unless FHWA's Mississippi Division Administrator approves on their behalf).

3.2 Deed Recorded at Courthouse

In accordance with 23 CFR 710.601(h), following execution of the highway easement deed, MDOT records the deed in the appropriate land record office and advises FHWA and the concerned land-owning agency.

3.3 Certified Copies

FHWA and the land-owning agency receive certified copies of the recorded instruments.

3.4 Federal Land Transfer Revert Back to Federal Agency¹

When the need for the federal land acquired no longer exists, MDOT restores the land to the condition which existed prior to the transfer and gives notice to FHWA and to the concerned Federal Agency. The property immediately reverts to the control of the Federal Agency from which it was appropriated. Alternative arrangements may be made for the sale or reversion, or restoration of property no longer required as part of a memorandum of understanding or separate agreement.

3.5 Right of Entry for Federal Land Transfers

MDOT may coordinate with FHWA to obtain a right of entry with the appropriate federal agency when it is deemed necessary to expedite a project. This right of entry permits MDOT to start construction on Federal land immediately rather than waiting for the approval, execution, and recording of the highway easement deed.

3.6 Utility Relocation on Federal Lands

In accordance with 23 CFR 645.205 (d), a utility owner requiring to be relocated on Federal lands because of a highway project must obtain an easement and/or permit from the Federal agency which has jurisdiction over the land. MDOT cannot authorize any non-highway use of Federal land. The utility owner must coordinate with the relevant Federal agency to ensure that the non-highway use is permitted.

¹23 CFR 710.601(i)

LEGAL

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The following procedures document the responsibilities of the Mississippi Department of Transportation's ("MDOT") Legal Division. Eminent domain (also called "condemnation") is the power of the Mississippi Transportation Commission to acquire property for public uses, such as transportation projects, in exchange for payment of just compensation.

Please review all pertinent chapters in the Right of Way Operations Manual and the Roadway Design Operations Manual.

1. Pre-Trial Eminent Domain Procedures

1.1 Identification of Potential Eminent Domain Cases

Acquisition Agents may identify parcels that can only be acquired through eminent domain. Some common reasons for filing for eminent domain are listed here:

1. Property owner is a state legislator. Prevents any appearance of a conflict of interest. The property owner is provided a Fair Market Value Offer "FMVO" and notified that the acquisition is going directly to condemnation;
2. Title issues;
3. Property owner declines to sign the deed due to the amount of just compensation;
4. Property owner opposes language in the deed or easement.

If a potential condemnation is identified, the Acquisition Agent creates a Recommendation for Condemnation. The Recommendation for Condemnation includes the following items and is provided to the District Coordinator for review:

- Signed Recommendation for Condemnation Form [See Acquisition Forms Index - ROW 683];
- Copy of Agent's FMVO [See Acquisition Forms Index - ROW 205];
- Contact Report [See Acquisition Forms Index - ROW 520] completed and signed;
- W-9 Form (Acquisition Agent should make a good faith effort to get the W-9 signed and completed by the property owner. If the property owner refuses to sign W-9 Form, the Acquisition Agent will leave the form with the property owner and note this on the Contact Report and Invoice [See Acquisition Forms Index - ROW 320]);
- Physical addresses (not a post office box) of out-of-state owners of property being condemned, including lessors, renters, and easement holders; and
- Physical addresses (not a post office box) of in-state owners of property being condemned, including lessors, renters, and easement holders.

***NOTE: aforementioned forms may be obtained from the Right of Way Operations Administrator's Assistant.**

The District Coordinator may request another acquisition attempt, request additional information, or approve the Recommendation for Condemnation. Upon approval of the Recommendation for Condemnation by the ROW Operations Administrator, these documents are included in the parcel file, which is routed to the MDOT Legal Division for review. In addition, following the ROW Operations Administrator's approval, the Acquisition Section Administrative Assistant notes in the Parcel Tracking System that the parcel is in condemnation, specifying a date of condemnation.

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After submitting the Recommendation for Condemnation to the ROW Operations Administrator, the Acquisition Agent discontinues contact with the property owners, their attorneys, or other designated representatives once the file is sent to the Trial Attorney. If the property owner or designated representative contacts any Acquisition Agent, the Acquisition Agent should contact the District Coordinator or MDOT Legal Division to determine the status of the Eminent Domain proceedings. If the file has not been sent to the Trial Attorney, the Acquisition Agent may discuss any issues of the landowners including possible acquisition of the parcel.

1.2 Initiation of Condemnation Process

Upon receipt of the parcel file, including the Recommendation for Condemnation forms, MDOT Legal Division initiates the following activities:

- Adds the condemnation to the Eminent Domain Section of the Parcel Tracking System;
- Submits a request to the Special Assistant Attorney General for assignment of an attorney to the case. The Attorney General's Office selects an attorney from a pre-approved list based on the location of the condemnation case and the attorney's experience; and
- Prepares the recommended for condemnation for inclusion on the next Mississippi Transportation Commission agenda.

MDOT Legal Division passes the file on to the Roadway Design Division (RWD) Survey, Maps & Deeds Condemnation Squad Leader, who copies pertinent information from the file to send to the District Office for requesting survey or field verification.

The Survey, Maps & Deeds Condemnation Squad Leader holds the file until: 1) an attorney is assigned by the Attorney General's Office; 2) the file is approved for condemnation by the Mississippi Transportation Commission; and 3) the survey or sufficient field data is received to prepare a correct description of the property being acquired.

1.3 Obtain Mississippi Transportation Commission Approval

The project number, file number, property owner's name, project termini, and county are provided on the agenda for each parcel that the ROW Division is requesting the Mississippi Transportation Commission to officially condemn.

If condemnation is approved, the Mississippi Transportation Commission's Secretary completes the Order to Condemn and the Controlled Access Order, if applicable, and sends these documents to the MDOT Legal Division. The MDOT Legal Division sends the Orders to the designated Attorney and places a copy of each document in the parcel's condemnation file. In the rare instance that condemnation is not approved, the file is returned to the ROW Operations Administrator for further action.

1.4 Condemnation Survey Request

For every approved condemnation case, the RWD Survey, Maps & Deeds Condemnation Squad Leader sends the District Office or applicable consultant a condemnation survey request with the following documents attached:

- Property owner's record title description,
- ROW Acquisition Map, and
- Legal description (Exhibit A).

1.5 Trial Attorney Selection

The Attorney General's Office provides the MDOT Legal Division with a copy of the executed work assignment agreement between the attorney and the Attorney General's Office.

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1.6 Attorney Condemnation Package

Following notification of an attorney assignment by the Attorney General's Office, approval of the condemnation by the Mississippi Transportation Commission, and upon receipt of proper field data or survey, the condemnation file is provided to the Legal Secretary. The Legal Secretary prepares a cover letter to the attorney that contains instructions for the condemnation case. The Legal Secretary provides this cover letter to the MDOT Legal Division who prepares the Attorney Condemnation Package containing:

1. Attorney Condemnation Package Cover Letter;
2. Mississippi Transportation Commission Order;
3. Legal description (Exhibit A);
4. Title report (derailment);
5. Four (4) ROW Acquisition Maps with the acquisition area shaded;
6. Relevant Condemnation documents including but not limited to the Acquisition Agent's Recommendation for Condemnation, FMVO, and Contact Reports;
7. One (1) Survey Plat; and
8. Other relevant documents.

At this point, the Legal Division adds information on the case to the Parcel Tracking System and adds an adhesive label to the file notifying that this is a condemnation file and it should not be returned to the File Room until closed by the attorney.

1.7 ROW Acquisition Map and Legal Description Update

Upon receipt of the survey completed for condemnation from the District, RWD Survey, Maps & Deeds Section prepares a new ROW Acquisition Map and an amended Exhibit A if applicable. The Survey, Maps & Deeds Condemnation Squad Leader sends the MDOT Legal Division the new ROW Acquisition Map. The MDOT Legal Division then forwards the new ROW Acquisition Map and amended Exhibit A to the assigned appraiser, Project Engineer, and the Trial Attorney. A copy of the updated ROW Acquisition Map and original updated deed description are placed in the condemnation file.

1.8 Trial Displays

The Trial Attorney may request additional trial displays, such as enlarged images of specific areas of the property. The MDOT Legal Division works with the RWD Survey, Maps & Deeds Section to prepare these displays.

1.9 Filing the Condemnation Complaint

The Trial Attorney is responsible for filing the condemnation complaint in the proper court. Once the condemnation complaint has been filed, the Trial Attorney notifies the MDOT Legal Division of the date the complaint was filed. The MDOT Legal Division then logs this activity into the Parcel Tracking System. If any changes are made to the trial date, the Trial Attorney informs the MDOT Legal Division immediately.

1.10 Appraisal Update Request Package

The ROW Operations Administrator submits a court appraisal request to the Appraiser of Record asking that a court appraisal be completed in 60 days of the filing date. Included with this request is the following information:

1. Legal description (Exhibit A),
2. ROW Acquisition Map,
3. Trial Attorney's name and address

For a detailed description of the court appraisal process, see the Appraisal Chapter of the Right of Way Operations Manual.

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1.11 Statement of Value Form

Based on the final court appraisal, the MDOT Legal Division prepares a *draft* Statement of Value (“SOV”) Form. The *draft* SOV Form and completed Discovery Material Form are submitted to the Attorney a minimum of 25 days before trial.

The Trial Attorney prepares the *final* SOV Form and files the form with the court a minimum of 20 days prior to trial.

1.12 Settlement Offers During Condemnation Process

If MDOT receives a settlement offer from a property owner during the condemnation process, the MDOT Legal Division reviews the offer and makes a recommendation regarding its reasonableness. The offer is then forwarded to the ROW Division Director and the Office of the Attorney General for review. If approved by the Office of the Attorney General and the ROW Division Director, a memorandum stating the terms of the acceptance of the offer is sent to the Attorney. Based on this memorandum, the Attorney prepares an Agreed Judgment and a trial is avoided. A copy of the Agreed Judgment is sent to the MDOT Legal Division for payment processing. If the acceptance of an offer requires a significant adjustment from the FMVO, a memorandum must be prepared and given to the Division Director for concurrence and submitted to the parcel file justifying the adjustment.

If the offer is declined, the Attorney is informed and MDOT and the Trial Attorney proceed towards trial.

1.13 Quick Take

MDOT is authorized by Mississippi Code (Sections 11-27-81 to 11-27-89) to utilize a ‘quick take’.

Under the quick take procedure, based upon a court appointed appraisal, the Court awards MDOT right of immediate title and possession. MDOT makes a deposit with the Court for not less than eighty-five percent (85%) of the amount of the compensation and damages as determined by the court appointed Appraiser or MDOT’s fair market value, whichever is greater. This grants MDOT immediate right of entry, while allowing for a court hearing of the eminent domain case at a later time to determine just compensation.

The Trial Attorney provides the order granting right to immediate title and entry to the MDOT Legal Division. The MDOT Legal Division processes the deposit and the District Coordinator then delivers the deposit payment to the Circuit Clerk.

1.14 Pre-trial Meeting

The Trial Attorney arranges a pre-trial meeting to walk through the specifics of the case and discuss testimony. This meeting includes all witnesses including an engineering witness and a value witness. Other specialty witnesses may be called on an as-needed basis. The witnesses should be present at the pretrial meeting together.

Note: Pre-trial guidelines for the value witness are contained in the Appraisal Chapter of the ROM.

2. Condemnation Trial and Post-Trial Procedures

2.1 Trial Scheduling

Trial Attorneys should schedule trials as soon as possible and coordinate with witnesses as to their availability to attend and testify. The Attorney General’s Office and the MDOT Legal Division should be notified of trial dates as soon as possible.

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2.2 Trial (or Settlement) Report

Upon completion of trial proceedings (or completion of a settlement), the Trial Attorney submits a Trial (or Settlement) Report to the MDOT Legal Division and the Attorney General's Office. This report includes the following:

1. Caption of the case including case number, case name, and court;
2. Parcel, project, and highway numbers;
3. MDOT estimates of value and dates such estimates were made;
4. All other appraisal estimates of value and dates they were made;
5. Date, place, and length of trial;
6. Brief factual report of the trial, including range of testimony of the parties, etc.;
7. Statement of the major issues;
8. Major differences in approaches to value among the State's witnesses and those of the property owner;
9. Explanation of any substantial variance between the numbers in the Statement of Value and the State's actual testimony;
10. Candid evaluation of the quality of MDOT's witnesses;
11. Candid evaluation of the judge;
12. Comments on possible legal error in the record, explanation of the State's action regarding motions, objections, etc., and the court's ruling relative thereto; and
13. Recommendations regarding motions for new trial, remittitur, or appeal, and the reasons therefore.

2.3 MDOT Condemnation Appeal

If the trial verdict is unfavorable for MDOT, the MDOT Legal Division and the Attorney General's Office will determine if an appeal is reasonable. This decision can be based on economics, legal issues, or the need for clarification of an issue. Appeals are handled by the Trial Attorney in accordance with statutes and court rules.

2.4 Complying with the Final Decision

Following issuance of the final decision by the Court, the MDOT Legal Division calculates interest owed and any amount above the original quick take deposit. The MDOT Legal Division processes an invoice to be paid to the Circuit Clerk.

The Trial Attorney records the judgment in the Land Records Office of the appropriate county and sends the judgment and Trial (or Settlement) Report to the MDOT Legal Division and the Attorney General's Office. These documents are placed in the Condemnation File.

2.5 Condemnation File Close-out

The MDOT Legal Division files the Condemnation File in the ROW Division's File Room. The Condemnation File contains the following completed documents:

1. Trial (or Settlement) Report;
2. Judgment (copy);
3. Notice stating that deposit was received by the clerk;
4. Refund from clerk (if any); and
5. All other documents involved in litigation of that parcel.

The Legal Secretary updates the Parcel Tracking System with the final status of the condemnation case.

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2.6 Reimbursement of Property Owner Litigation Expenses¹

The property owner is reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which were incurred due to a condemnation proceeding, ONLY if:

1. The final judgment of the court is that MDOT cannot acquire the real property by condemnation; or
2. The condemnation proceeding is abandoned by MDOT other than under an agreed-upon settlement; or
3. The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or MDOT effects a settlement of such proceeding.

3. Other MDOT Legal Division Responsibilities

3.1 Approval of Deed Clauses

Approval of all deed clauses is kept current by MDOT Legal Division staff.

3.2 Other Legal Functions

The MDOT Legal Division Attorney renders routine advice on matters pertaining to the proper execution of deeds; procedures when the owner is under a legal disability; matters regarding contracts entered into by the ROW Division; matters regarding the status of utility company property interests; and other matters in which the ROW Division requires legal advice.

¹ 49 CFR 24.107

**ACQUISITION
PROJECT
CLOSEOUT**

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ACQUISITION PROJECT CLOSEOUT

The following procedures document the activities that the ROW Division undertakes upon completion of an acquisition project. During acquisition project closing, all records, documentation, and maps for the project are retained and stored; any excess properties and/or right of way encroachments are cleared from the project; and all financial claims are summarized and submitted for payment.

Please review all pertinent chapters of the Right of Way Operations Manual.

1. Record Keeping and Retention

MDOT follows the regulations which prescribe record keeping and retention requirements for the federal-aid highway program found in 23 CFR 710.201 (e). These regulations define the types of records and the period of time these records are to be held for auditing and/or inspection.

2. MDOT Parcel Tracking System Project Closeout

At the completion of right of way acquisition, each ROW Division Section must enter any final information and close out their respective parts of the Parcel Tracking System.

3. Final Audit of Improvements

Following abatement, demolition, and contract removal of improvements, the Property Management Section conducts a final audit of the entire acquisition area to ensure improvements are removed prior to contract letting.

4. Distribution of Copies of Recorded Instruments

After acquisition is complete, the District Coordinators receive a notification from the Parcel Tracking System letting them know the parcel(s) have been acquired and copies of all recorded deeds and easements for the project can be downloaded and disbursed to the appropriate parties in the District office.

5. ROW Certification

The ROW Director prepares the ROW Certification as required by 23 CFR 635.309 (b) (c). The ROW Certification states the following:

- MDOT has either completed all right of way clearance, utility, and railroad work or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the construction schedule;
- MDOT has relocated all displacees to decent, safe, and sanitary housing or the State has made available to relocatees adequate replacement housing; and
- MDOT has acquired legal and physical possession of all necessary rights of way, including control of access rights when pertinent; OR although all necessary rights of way have not been fully acquired, the right to occupy and to use all rights of way required for the proper execution of the project have been acquired.

The ROW Director uses the following resources to complete the memorandum:

- Property Clearance Manager's status of potentially contaminated sites and asbestos status of improvements;
- Relocation Section's status of displacee relocation;

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- District Utility Coordinator's utility certification;
- Railroad status from District on projects without right of way and ROW Division Director on projects with right of way
- ROW Legal Section's status of eminent domain cases; and
- Encroachment certification from the District Office.

The ROW Certification is completed for all projects except for state funded maintenance projects. Upon completion, the ROW Director submits the ROW Certification to the Federal Highway Administration or to MDOT's Chief Engineer. Any use of federal funds in a project requires that the ROW Certification be sent to the Federal Highway Administration. If the project is funded solely by state funds, the ROW Certification is provided to the MDOT Chief Engineer. The ROW Director provides the final ROW Certification to the Construction Division, the Contract Administration Division, the District Coordinator, the District Office, the Chief Engineer, the Assistant Division Administrator, the Project Engineer, and Central Records. Upon receipt of the ROW Certification from the ROW Director, the District Coordinator assists the Project Engineer in tracking the status of all outstanding exceptions noted in the ROW Certification.

6. Types of Right of Way Certificates

ROW certification is a written statement summarizing the status of all right of way related matters pertaining to a proposed construction project. The purpose is to document the construction project is for advertising and states:

- Real property interests have been, or are being secured.
- Physical obstruction including utilities and railroads have been or will be removed, relocated, or protected as required for construction, operation, and maintenance of the proposed project.
- Right of way acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.

23 CFR 635.309 states four certification levels can be utilized by the State (LPA). Under certification no. 1 and no. 2, projects may be advertised, bids opened and construction contracts awarded. A Conditional Certificate no. 3 may be used with the work around provisions pursuant to 23 CFR 635.309 (c) (ii). FHWA will approve a Conditional Certificate No. 3 in accordance with current stewardship and oversight agreement.

ROW Certification is required for any project where *federal funds participate* in any phase of the project.

§635.309 Authorization (Right of Way Certificates)

Authorization to advertise the physical construction for bids or to proceed with force account construction thereof shall normally be issued as soon as, but not until, all of the following conditions have been met:

(a) The plans, specifications, and estimates (PS&E) have been approved.

(b) A **statement** is received from the State, either separately or combined with the information required by paragraph (c) of this section, that either all right-of-way (ROW) clearance, utility, and railroad work has been completed or that all necessary arrangements have been made for it to be undertaken and completed as required for proper coordination with the physical construction schedules. Where it is determined that the completion of such work in advance of the highway construction is not feasible or practical due to economy, special operational problems or the like, there shall be appropriate notification provided in the bid proposals identifying the ROW clearance, utility, and railroad work which is to be underway concurrently with the highway construction.

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(c) Except as otherwise provided for design-build projects in §710.309 of this chapter and paragraph (p) of this section, a **statement** is received from the State certifying that all individuals and families have been relocated to decent, safe, and sanitary housing or that the State has made available to relocatees adequate replacement housing in accordance with the provisions of the 49 CFR part 24 and that one of the following has application:

(ROW Certificate #1) 23 CFR 635.309 (c) (i)

Project will be constructed in existing right-of-way.

or

- (1) *All necessary ROW, including control of access rights when pertinent, have been acquired including legal and physical possession. Trial or appeal of cases may be pending in court but legal possession has been obtained. There may be some improvements remaining on the ROW but all occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage, or demolish these improvements and enter on all land.*

(ROW Certificate #2) 23 CFR 635.309 (c) (ii)

- (2) *Although all necessary ROW have not been fully acquired, the right to occupy and to use all ROW required for the proper execution of the project has been acquired. Trial or appeal of some parcels may be pending in court and on other parcels full legal possession has not been obtained but right of entry has been obtained, the occupants of all lands and improvements have vacated and the State has physical possession and right to remove, salvage, or demolish these improvements.*

(ROW Certificate #3) 23 CFR 635.309 (c) (iii)

(3) *The acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. Under these circumstances, the State may request approval for the advertisement for bids based on a conditional certification. The FHWA will approve the request in accordance with current stewardship and oversight agreement.*

Restricted certifications can be issued under certain situations including but not limited to utilities, railroads, improvements or other unforeseen circumstances. Restrictions are indicated in the certificate by the project station numbers delineated on the right of way acquisition maps or project plans and restricted to a specific date.

7. Filing of ROW Acquisition Map – Post Construction

As required under Section 65-1-53, MS Code 1972 Annotated and Amended, a copy of the ROW Acquisition Map is filed with the Chancery Clerk following completion of both the acquisition of right of way and project construction.

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The following procedures document the responsibilities of the Right of Way Division Accounting/Auditing Section.

Please review all pertinent chapters of the Right of Way Operations Manual.

1. Monetary Transactions

The Right of Way Accounting/Auditing Section monitors all ROW-related expenditures, reimbursements, and receipts for MDOT in the division. The Accounting Section Manager ensures that all staff interrelated to processing invoices and/or travel documentation is annually updated with current travel and procurement publications from the Department of Financial Administration [See manuals indexed under ROW intranet website].

1.1 Budget Verification and Procurement Approval for Division Purchases

The Accounting Section Manager verifies that administrative and operational expenditures correspond with the Division's appropriated budget. After verification and approval, the Purchasing Officer initiates the procurement process by entering a Requisition (RX) into the Financial Management System (FMS), and the Accounting Manager receives the RX via FMS Approval Tracking Mailbox for coding verification and approval. Once approved it goes to Procurement Division for further processing. Upon receipt of the Purchase Order, the Purchasing Officer places the order with the correct vendor.

1.2 Receiving Process

Upon receipt of ordered items from vendor, the Accounting/Auditing Section proceeds with receiving process matching the RX, Purchase Order and Vendor Invoice to items received. After auditing documentation and goods received, an Electronic Receiver (ER) is created in FMS by entering the document information and attaching a scanned copy of the original invoice to the ER with the PO, RX, and BPO numbers written on it as well. This is forwarded to the Financial Management Division, and the items are distributed to the requester or the Supervisor, as appropriate. All fixed assets received go to the Property Custodian and are put on inventory, assigned an end-user, and distributed accordingly.

1.3 Payment Processing

The Accounting/Auditing Section processes and pays invoices for all products, goods, and services invoiced to the ROW Division. This includes supply vendors, project consultant services, attorneys, property acquisition and relocation payments, reimbursement payments to state and local municipalities, and utility relocation services. One of the following types of payment processes are used to provide payment(s) to a vendor each day:

A. Direct Purchase Order. The Direct Purchase Order or (FP) is used to process consultant services invoices that originate in Consultant Services Unit. Upon electronic notification

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or paper receipt of approved invoice from the Assistant Division Administrator, the Accounting Section Manager audits the invoice for accurate documentation and coding compliance among PTS (Parcel Tracking System), FMS, and MAGIC. The invoice data is entered with an uploaded copy of invoice and posted into FMS. Once complete, the invoice is electronically sent back to the ROW invoice originator. Lastly, the invoice is sent electronically to CSU where the invoice process is closed after a warrant is generated by MAGIC and interfaced with FMS and PTS. The Accounting/Auditing Section keeps one (1) copy of the invoice for their records and reviews reports and data in FMS and PTS for any errors or irregularities for auditing purposes and to verify that payment process is complete.

- B. Requisition.** A Requisition (RX) is another method used to process consultant invoices as well as any other vendor invoice initially set up with a Purchase Order (PO). CSU invoices setup to be paid against a PO follow the same approval path as a direct purchase order; the difference is a RX must have a Receiver (ER) completed after the vendor invoice is received and services are completed. Payment is made to the vendor after the ER is complete and entered into Financial Management System (FMS).
- C. Accounting Expenditure.** ROW Accounting Expenditure (RW) is used to process payment for land and improvement purchases/damages, fees for partial releases, attorney fees and mortgage processing, tax reimbursement, utility adjustments, and displacee relocation expenses. The requestor submits an approved ROW-320 Form and vendor invoice to the Accounting/Auditing Section. When another section in ROW enters the accounting expenditure information into FMS, then two (2) copies of the supporting documentation are given to Accounting/Auditing Section. Original deeds and judgments must remain in the parcel file. An electronic copy of the original RW, invoice, and documentation is uploaded to RW in FMS. Verification of payment is generated in FMS and in turn interfaced with PTS.
- D. Direct Voucher.** Upon paper receipt from the requesting Section of an original invoice including the Project No., Vendor No., and Organizational Cost Account (OCA), the Accounting/Auditing Section reviews the invoice for accuracy, enters the information into FMS and attaches a scanned copy of invoice to voucher. The Accounting/Auditing Section keeps one (1) copy of the invoice for their records. To verify that payment has been made, the Accounting/Auditing Section reviews reports and data in FMS and PTS.
- E. LPA Project Reimbursement.** Upon approval from the ROW LPA Coordinator, the invoice is physically given to the Accounting Section Manager to be audited and processed in PTS on a ROW-320 form. Next, a signature is required on the completed ROW-320 form from the ROW LPA Coordinator and the Assistant Division Administrator (ADA). Once the Accounting Section Manager verifies that there is an adequate balance of funds in FMS to pay the invoice, the Accounting Section Manager proceeds to process and post the invoice in FMS for payment with the invoice and documentation attached to the RW document electronically. If there are insufficient funds to pay the invoice, the Accounting Section Manager returns the invoice to the ROW LPA Coordinator. Once the RW Voucher is produced, the Accounting Section Manager sends it to the ROW LPA Coordinator for their records.

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F. There are (2) types of LPA Reimbursement expenditures invoiced to ROW for payment with various database codes and different auditing and payment methods:

1. **Consultant Services:** Invoice(s) processing fees for Real Estate Services such as Appraisal, Appraisal Review, Acquisition, Relocation, Property Mgt., Contaminated Sites, Demolition, Asbestos Inspection and Consulting, Project Management, etc. These consultant service invoices travel from the LPA entity to the LPA ROW Coordinator to audit completed work in compliance with the contract scope of work, fee schedule, unit fees, balance of contract funds and drafts a recommendation for payment and Memorandum to the Accounting Section Manager after review is complete. Next, the ROW LPA Coordinator and ADA approves the PTS-320 and forwards it to the Accounting Section Manager to process payment in PTS and FMS.
2. **Right of Way Activity Costs:** Invoice(s) processing reimbursement for Land purchases, Improvements, Damages, Uneconomic Remnant, Relocation, etc. These ROW activity invoices travel from the LPA entity to the LPA ROW Coordinator for audit compliance against the scope of the project, balance of funds in FMS, and draft a recommendation for payment and Memorandum to the Accounting Section Manager after review is complete. Next, the ROW LPA Coordinator and ADA approves the PTS-320 and forwards the submitted invoice for reimbursement to the Accounting Section Manager to process payment in PTS and FMS.

1.4 **Receipt of Payments/Accounts Receivable**

The Accounting/Auditing Section receives all of the division's payments and places a MDOT "For Deposit Only" stamp on the back of the check immediately. The following types of payments are received:

A. **Refund and Overpayment Receipts**

General payments received by the ROW Division include those for refunds on eminent domain judgments, rent from displaced businesses using MDOT property, overpayment(s) from a vendor, and employee reimbursements to MDOT. The receipt of payment is logged into a spreadsheet and forwarded to FMD with a detailed memorandum from the Accounting/Auditing Section.

1.5 **Preserving Payment Records for Right of Way Division**

The Accounting/Auditing Section maintains accurate records of all payments made for ROW Division purchases as well as payments received for ROW-related products and services. All files are kept in alphabetical order, with individual files for high volume (monthly or more frequent) vendors. Files are maintained and disposed of according to Mississippi Department of Archives and History policies. For all goods and services purchased through Office Management, the Original Invoice, PO, RX, ER, and a copy of the Posted ER are filed securely for (3) three years for auditing purposes.

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2. Right of Way Imprest Fund Requisitions

The Right of Way Imprest Fund is a petty cash fund. The following types of items may be paid for from the Imprest Fund:

2.1 Ad-hoc Payments for Vendor Services

If expenses are incurred by vendors, for services such as film processing, copies, etc., either a monthly bill is received from the vendor, or the employee who incurred the expense receives the bill and submits a Reimbursement Form (FMD 321) *[See forms under ROW intranet website]*; the Accounting/Auditing Section prepares the Distribution Form (FMD 684) and then forwards all signed and approved forms and documentation to the Contract Administration Division for processing payment. The Contract Administration Division processes payment from the Right of Way Imprest Fund.

2.2 Work-related Materials Purchased by Authorized Personnel

Personnel may make purchases of certain work-related materials and be refunded under the Imprest Fund with proper receipts and documentation. After authorization and purchase, the receipt is given to the Accounting/Auditing Section and a Reimbursement Form FMD 321 is completed. The Accounting/Auditing Section completes a Distribution Form FMD 684 and submits the form, documentation/receipt, and the Reimbursement Form to the Contract Administration Division. The Contract Administration Division then makes payment from the Right of Way Imprest Fund to the employee via check by mail. **All efforts are made to deter the use of the Imprest Fund in this manner.**

2.3 Imprest Fund for Eminent Domain

The Imprest Fund for Eminent Domain is an account with a maximum balance of \$750,000, with the Deputy Executive Director/Chief Engineer being the Imprest Custodian. This fund is used to make court deposits for Eminent Domain, as well as to pay judgments in a timely manner, to avoid accrual of interest charges. The Legal Section forwards a court order and ROW 320 form to the Accounting/Auditing Section with authorized signatures from Legal Section. The document is entered into FMS and an IM (Imprest) document is generated; an Imprest check is then printed and attached to the court order, PTS Invoice, and FMS IM document. All blank Imprest checks are kept in numerical order and stored under lock and key. The Imprest Check requires two signatures, by two of the following (in order of preference):

- Right of Way Division Director
- Financial Management Division Administrator
- Deputy Executive Director/Administration
- Deputy Executive Director/Chief Engineer

As needed, the Accounting/Auditing Section prepares a replenishment request, showing a reconciliation of the beginning balance in the Imprest Fund to the current balance of the Imprest Fund, with a list of all disbursements for the time period. The replenishment request is signed by the Accounting Section Manager and Imprest Custodian (Deputy Executive Director/Chief Engineer). Funds are electronically deposited into the Imprest Fund for Eminent Domain, and the Accounting Section Manager is notified with a confirmation email from Paymode-X with details of the replenishment payment.

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3. Accounting, Auditing, and Budgeting Analysis for Right of Way Division

The ROW Accounting/Auditing Section Manager prepares the ROW Division's annual budget, generates analytical, technical and non-technical reports for the division, and other divisions and agencies to help facilitate future goals and objectives of the division and the agency.

3.1 ROW Division Budget Preparation

The Accounting/Auditing Section prepares the ROW Division annual budget prior to the end of the fiscal year two years in advance. Inputs to budget preparation include:

- Anticipated construction expenditures reports from each District (Provided by Budget Division for each fiscal year)
- Collaborate with ROW Administration, Asset Management Division, District Coordinators, , and Property Management on future projects, UAs, and necessities required to fulfill division responsibilities
- Assess changes in land, contractual, staffing, and travel costs
- Analyze past and present fiscal expenditure trends; reports for ROW Division
- Review Appropriation Bill and other economic considerations

Based on these inputs, the Accounting Section Manager calculates anticipated expenditure percentages attributable to each District by Program. The Accounting Manager then examines and compares anticipated needs to the previous year's budget. Based on this analysis, the Accounting Manager estimates how much money is needed and then appropriates needed funds correspondingly into Districts and Programs.

The Accounting Section Manager prepares a draft budget report and submits a copy to the Division Administrator for approval. Once approved, the budget is returned to the Accounting Section Manager for expenditure data entry into FMS. After fiscal budget data entries are complete, the Accounting Section Manager sends an email to the Budget Director attaching an electronic copy of the accumulator report of fiscal budget.

3.2 Right of Way Acquisition Business Process Audits

Upon request of FWHA, OSA (Office of State Auditors), or an MDOT division, the Right of Way Accounting/Auditing Section cooperates fully to satisfy all audit inquiries to ensure all regulations, SOP's, and statutes are adhered to and followed during the right-of-way acquisition process. Below is the methodology used to calculate the figure pertaining to the annual FHWA Statistical Report Worksheet.

- (A) First, pull an expenditure financial inquiry in FMS for **prior** Fiscal Year. Set your filter on the left to **UC1 = 126** and your primary detail on the right by **OL3**. Be sure you have **Month 15 and Year- to- Date selected in FMS**. Download data to a spreadsheet and zero out OL3's 1795, 1796, 3120, and 3121.

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(B) Then, do the same inquiry as above for prior Fiscal Year with **Month 03** selected in FMS.

Download to a spreadsheet and zero out OL3's 1795, 1796, 3120, and 3121.

(C) Finally, do the same as above for current Fiscal Year with **Month 03** selected in FMS.

Download to a spreadsheet and zero out OL3's 1795, 1796, 3120, and 3121.

(A) = Total UC1: 126 Expenditures for Prior FY thru Month 15

(B) = Total UC1: 126 Expenditures for 1st 3 Months of Prior FY

(C) = Total UC1: 126 Expenditures for 1st 3 Months of Current FY

(A - B) + C = Total Costs for Relocation Advisory Services pertaining to Federal Fiscal Year (October 1st thru September 30th). Input the Federal FY and the calculated figure above into the Relocation FHWA Report in PTS, and all of the fields are populated accordingly. Use the generated PTS report in order to transpose the data requested onto the official FHWA Statistical Report Worksheet and submit it to FHWA **No Later than November 15th**.

3.3 Act as a Resource for Inquiries on ROW Project Information

The Accounting/Auditing Section communicates with ROW staff, Budget, CSU, Programming, IS, Asset Management, Contract Administration, Financial Management, and Procurement Division's in order to respond accurately and efficiently to internal and external inquiries regarding procurements, acceptable division project codes, values, and etc. associated with ROW projects and/or the right of way acquisition business process.

4. Fixed Asset Accounting for the Right of Way Division

The Property Custodian for ROW maintains an inventory of all fixed assets, as defined by the Property Officer's Manual [See *manuals under ROW intranet website*], Bureau of Fleet Management, Mississippi Office of the State Auditor, and the MDOT Asset Management Division.

4.1 New Inventory Updates

The Property Custodian updates the Fixed Asset Inventory in FMS whenever a fixed asset is transferred, acquired, or disposed of by the ROW Division. For new fixed assets, the Receiving Clerk sends the item to the Property Custodian for logging into Fixed Asset Inventory. After the Property Custodian places the Property ID label on the item and assigns asset to an end-user in FMS, it is then sent to the requester. Transfers of fixed assets from other MDOT Divisions also follow this process.

All items to be disposed of must be turned in to the Property Custodian for disposal. To dispose of an item, the Property Custodian completes the MDOT Fixed Asset Disposal Form (AMD-601) [See *forms under ROW intranet website*] and obtains ROW Division Administrator approval/signature on the appropriate form. The disposal form is then sent to MDOT's Asset Management Division for approval. Following receipt of AMD on approval, the Property

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Custodian transfers the item(s) to OSP (Office of Surplus Property), Cellphones for Soldiers, or they are sent to an auction such as fleet vehicles.

4.2 Inspection of Fixed Asset Inventory

The Property Custodian conducts transfers and analysis of fixed assets listed on the Active Asset Inventory Report in FMS (Financial Management System) on a regular basis. The Property Custodian verifies these items visually at least once annually. For items located in the field or District Offices, the Property Custodian travels to the location to physically verify all fixed assets in their possession. All items not on inventory MUST have a blue PROPERTY of MDOT sticker attached. Any fixed asset changes or discrepancies are promptly completed and reconciled in the FMS. If an item on the inventory is missing, MDOT Property Office procedures are followed [*See manuals under ROW intranet website*].

4.3 Annual Internal / External Audit Inventory Inspection

The Mississippi Department of Audit contacts the MDOT Asset Management Division to schedule inventory inspections. The Accounting/Auditing Section annually conducts an internal audit of all assets in the division; every few years an external audit is conducted in collaboration with The Office of State Auditor's Agency. The division Property Custodian is accompanied by a state auditor and a representative from Asset Management Division during the external audit of the ROW Division's fixed assets. The Mississippi Department of Audit personnel account for all assigned assets on inventory by viewing property ID labels for inventory verification.

**OFFICE
MANAGEMENT**

RIGHT OF WAY OPERATIONS MANUAL 2025

OFFICE MANAGEMENT

The following procedures document the responsibilities of the Right of Way Division's Office Management Staff.

Please review all chapters of the Right of Way Operations Manual.

1. File Room

1.1 Historical Files for MDOT Projects prior to 2014 in the Right of Way Division

ROW Project files are maintained in the ROW Division File Room. To check a file out of the File Room, a requestor completes a separate checkout card for each file needed. Checkout cards are located at the checkout counter. Files should not leave the Jackson office building. The file must be returned to the ROW Division File Room in its original condition, with all documents in their original order.

1.2 Working Files (2014-Present)

In 2014, all project related information became incorporated into the Parcel Tracking System (PTS) file room for each project and parcel. A general project file containing original project file related instruments is maintained in the ROW Division file room. The same retrieval process for these instruments will apply as stated above. All other documentations maybe retrieved from PTS.

2. Office Supplies for Right of Way Division

2.1 Monitoring Supplies

The Purchasing Agent/Office Manager routinely monitors the stock of basic office supplies. For most supplies, this involves observing usage of current inventory and re-ordering supplies as needed or requested by ROW personnel. Replenishments categorized as technical supplies for computers, printers, etc. are ordered in coordination with staff from Information Systems Division.

2.2 Procurement Process Ordering Office Supplies for Division

1. Office Manager, ROW Administration, or Section Manager communicates a request.
2. Purchasing Agent/Office Manager enters the requisition (RX) into the Financial Management System (FMS).
3. The Requisition is sent electronically to the ROW Accounting/Auditing Section Manager for budget verification and approval; ROW Accounting/Auditing Section Manager then approves or rejects the requisition in FMS.

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4. Approved requisitions go to Procurement Division where a Purchase Order (PO) is issued and created in FMS. A hard copy of the Purchase Order is sent to the Office Manager/Purchasing Agent.
5. Purchasing Agent/Office Manager places order with the vendor.
6. After the order arrives and all items are accounted for by Office Management/Accounting staff it is forwarded to the Accountant/Auditor for a Receiver (ER) to be entered into FMS. A copy of the Purchase Order and the Original Vendor Invoice is forwarded to one of the Accountant/Auditors in the section.
The Purchasing Agent is responsible for processing payment for all orders, courier services and invoices pertaining to office equipment under a lease and/or maintenance contract within 45 days of receiving the vendor's invoice.

2.3 Distribution of Supplies to Right of Way Division

Office Management communicates with all sections to ensure ROW staff located in the Jackson Administration Building, Field offices, and/or District offices outside of Jackson are adequately supplied to fulfill job duties.

3. Equipment Leases

3.1 Securing Lease Contracts

On request from the Division Administrator, the Purchasing Agent/Office Manager secures lease contracts for equipment such as photocopying machines. The following procedures are followed in securing equipment lease contracts:

1. Purchasing Agent/Office Manager assesses the type of equipment to best fulfill the needs by conducting a comparable analysis of cost, usage and by communicating with ROW Division personnel for input of equipment's use being user friendly or not.
2. Purchasing Agent/Office Manager presents results to ROW Accounting/Auditing Section Manager for approval of analysis and then selects appropriate vendor and equipment from state purchasing contract.
3. Purchasing Agent/Office Manager gets approval for selected vendor and equipment from the Procurement Director and the Executive Director.
4. Each equipment lease contract specifies charges for use of the equipment. Such charges may include per copy and/or maintenance fees. The equipment lease contract also specifies the method for obtaining and reporting meter readings. The vendor may read the meter on site, call and request a reading, or Office Management staff may take the reading and report it to the Purchasing Agent/Office Manager. The Purchasing Agent/Office Manager is responsible for communicating meter readings to the vendor accurately and in a timely manner to avoid unnecessary frustration for MDOT and the vendor.

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3.2 Leased Equipment Troubleshooting and Repairs

Personnel are instructed to contact Office Management for any and all issues pertaining to leased office equipment. If Office Management is unable to resolve simple problems, they contact the vendor for maintenance service.

3.3 Routine Leased Equipment Servicing

The Purchasing Agent/Office Manager coordinates all routine servicing of leased equipment per the guidelines of the lease contract.

4. Temporary Staffing

4.1 Procuring Temporary Staffing (if required)

The following are the steps taken to procure temporary staffing services:

1. Section Supervisors submit written requests for temporary staff to ROW Division Administration for approval.
2. Once the request is approved, the written request is forwarded to the Purchasing Agent/Office Manager who collaborates with Human Resources to obtain necessary staffing.
3. All temporary staff report to the Purchasing Agent/Office Manager for scheduling and coordinating proper documentation for timesheet(s).
4. The Purchasing Agent/Office Manager monitors temporary staff contracts to ensure that the requirements of the contract and the temporary staffing agency follow all guidelines and SOPs set by MDOT throughout the duration of the contractual agreement.

5. Other Administrative Services

5.1 Monitoring Right of Way Division Telephone Communication

The Assistant Division Administrator is responsible for overseeing and monitoring telephones for the ROW Division. In the absence of the division receptionist, the Assistant Division Administrator coordinates with other sections in ROW to create a schedule of those responsible for answering the phone at the front desk.

5.2 Provide Notary Services to ROW Division

The Purchasing Agent/Office Manager is a registered Notary and provides such services for the ROW Division and other divisions as requested.

**EXCESS
RIGHT OF WAY
AND
UNECONOMIC
REMNANT PROPERTY**

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EXCESS RIGHT OF WAY AND UNECONOMIC REMNANT PROPERTY

Disposal of excess right of way and uneconomic remnant properties is coordinated by ROW (Right of Way Division); and is accomplished through cooperative efforts of the District Engineers, Traffic Division, Maintenance Division, Roadway Design Division, Environmental Division and Planning Division.

The sale of excess right of way and uneconomic remnant property is subject to the requirements as set forth in Section 65-1-123 of the Mississippi Code of 1972, Annotated; 23 CFR 710 Subpart D and the guidance and approval of FHWA (Federal Highway Administration) where applicable.

Definitions

Excess right of way is property that was originally acquired as right of way, but is later deemed by the MTC (Mississippi Transportation Commission) as no longer necessary for right of way purposes. Excess right of way is generally acquired via warranty deed.

Partial acquisition ("partial take") – a portion of land owner's property was acquired as right of way

Total acquisition ("total take," "complete take," or "whole take") – land owner's entire property was acquired as right of way

Uneconomic remnant property – Real property may be declared uneconomic remnant when a portion of a land owner's property was acquired as right of way, and the property remaining with the land owner is determined, by MDOT (Mississippi Department of Transportation), to have little or no value or utility to the owner. Uneconomic remnant property is generally acquired via warranty deed.

Pre-Whitworth easements are defined as all those interests in property acquired by the State Highway Commission of Mississippi through warranty deed, special warranty deed, quitclaim deed or other instrument of title prior to September 14, 1949. The interest of the MTC in any pre-Whitworth property is valued as an easement; therefore, title to the underlying fee interest of the subject property must be confirmed. The requesting party must file suit to quiet and confirm title of the underlying fee interest.

XPT (Excess Property Tracking System) is an MDOT application that is utilized to track data associated with excess right of way, uneconomic remnant property, and Pre-Whitworth easements. XPT contains a complete inventory of uneconomic remnant property owned by MDOT. XPT data is updated by the Property Disposal Coordinator upon acquisition of uneconomic remnant property, as well as throughout the disposal process of applicable real property. Applicable documentation to include concurrences, correspondence, title reports, surveys, appraisals, recorded quitclaim deeds, etc., are scanned into the XPT system. Read-only access to XPT may be granted to applicable MDOT employees upon request.

Requirements

Real property owned by MDOT that is determined to be excess shall be declared as such on the MTC minutes. Excess right of way and uneconomic property shall be sold according to the requirements of Section 65-1-123 of the Mississippi Code of 1972, Annotated.

FHWA approval is required for disposal of certain excess right of way and uneconomic remnant properties if federal funds were used for the purchase (23 CFR 710.403(f)); and based on guidelines of the current 'FHWA and MDOT Stewardship and Oversight Agreement'. The MTC must approve all purchase offers for the real property being disposed. The MTC must approve all requests to abandon excess right of way that was acquired prior to September 14, 1949 (Pre-Whitworth).

The real property was originally acquired with public funding for a transportation project; therefore proceeds

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from any sale will be used for transportation purposes eligible for funding under Title 23 of the United States Code. Proceeds from the sale of excess right of way or uneconomic remnant property should be credited to the project through which the property was purchased. If the project is no longer active, the proceeds should be credited to an active project with the same funding characteristics (federal or non-federal participating) and geographic location (preferably the same county and route number). ROW will notify FMD (Financial Management Division) if the proceeds will be credited to an alternate project.

Per Section 65-1-123(3) of the Mississippi Code of 1972, Annotated, the fair market value of the excess right of way or uneconomic remnant property is established by either the county tax assessor or a state licensed or certified appraiser.

Pursuant to the provisions of the Commission Order dated October 12, 2004 and filed in Minute Book 10, Pages 334 and 335, the MTC declares that, in order to recover operating costs associated with the sale of excess right of way or uneconomic remnant property, a non-negotiable transaction fee in the amount of ten (10) percent will be assessed to the fair market value of the subject property as established by a state licensed or certified appraiser and approved by the MTC. When the excess right of way or uneconomic remnant property is advertised for sealed bid, the transaction fee will be applied to the bid amount accepted by the MTC. The ten percent (10%) non-negotiable transaction fee will not apply to those properties determined to be pre-Whitworth.

Exceptions

Exceptions to the disposal process as outlined in this SOP may require State Legislation.

The transfer of properties, which were acquired with federal funds, to federal, state, or local agencies at less than fair market value for continued public use must be justified as being in the public interest and shall be approved by FHWA. The deed to such properties shall include a clause to require that the property interest revert back to MDOT if the property is no longer under public ownership and use. Examples include:

1. MDOT may submit a request to FHWA, in writing, to clearly demonstrate the exception is in the overall public interest for social, environmental, or economic purposes; nonproprietary governmental use; or uses under Title 23 CFR 142, Public Transportation (23 CFR 710.403(d)(1)).
2. Use by public utilities in accordance with 23 CFR 645 (23 CFR 710.403(d)(2))
3. Use by Railroads in accordance with 23 CFR 646 (23 CFR 710.403(d)(3))
4. Use for bikeways and pedestrian walkways in accordance with 23 CFR 652 (23 CFR 710.403(d)(4))
5. Use for transportation projects eligible under United States Code Title 23 (23 CFR 710.403(d)(5))
6. In accordance with 23 CFR 710.409(b), federal, state, and local agencies shall be afforded the opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes. Real property interests may be retained by MDOT to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility (23 CFR 710.409(c)).

If the property is sold at fair market value, no reversion clause is required (23 CFR 710.409(d)).

Excess Right of Way Disposal Process

Property identified as excess right of way may be offered for sale for an amount not less than the fair market value as established by a state licensed or certified appraiser. The opportunity to purchase the property is first offered to the original (total take) or current (partial take) property owner. If this party is not interested in purchasing the property, the offer is then extended to adjoining property owners.

1. District Review and Recommendation

Individuals interested in purchasing excess right of way property must submit their request, in writing, to the applicable MDOT district headquarters office. The District Engineer reviews the request and, if he determines the property to be excess right of way, composes a recommendation for disposal. The District Engineer sends an email packet to the Property Disposal Coordinator which includes his recommendation, requesting party's letter, Environmental Class of Action Determination form (ENV 160), and ROW map. The Property Disposal Coordinator forwards the packet to the Roadway Design, Traffic Engineering, Maintenance, Environmental, and Planning Divisions to request their concurrence with the District

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Engineer's recommendation. Concurrences must be submitted via email to the Property Disposal Coordinator. Once all concurrences are received, the Property Disposal Coordinator forwards the packet to the Chief Engineer for concurrence. The property cannot be offered for sale without full concurrence.

2. Identification of Parties with Statutory Interests – Title Report

Upon receipt of the District Engineer's recommendation to dispose of excess right of way, the Property Disposal Coordinator submits a request to the ROW Title Officer for the preparation of a title report. The title report is used to verify MTC ownership of the property. The title report also identifies parties with statutory interest in the property such as the original owner (total take), current owner (partial take), and adjoining property owners.

3. Notification of Requesting Party and Parties with Statutory Interest

Upon receipt of the title report, the Property Disposal Coordinator:

- a. Contacts the requesting party, in writing, to request a survey of the property they wish to purchase, including a legal description. The survey must be performed by a licensed surveyor and meet minimum standards. The property should be staked for the benefit of the appraiser. *If the property to be sold is exactly as described in the warranty deed that was recorded during the acquisition process, a survey may not be required.*
 - i. Included in this written communication is a brief description of the excess right of way disposal process and notification of the ten (10) percent non-negotiable transaction fee.
- b. Contacts others who may have a statutory interest in the property (original owner (total take), current owner (partial take), and adjoining property owners) as follows:

i. Statutory Interest – Total take

1. The opportunity to purchase the property must first be offered, in writing, to the **original land owner**.
2. If after due diligence, the original owner cannot be located, the offer to purchase is presented to **adjoining property owner(s)**.
3. If the original land owner is not interested in purchasing the excess property and either submits a Waiver of Purchase form or fails to accept the offer to purchase after forty-five (45) days, the offer to purchase is presented to **adjoining land owner(s)**.

ii. Statutory Interest – Partial take

1. The opportunity to purchase the property must first be offered, in writing, to the **current land owner** of the parcel of land from which the excess property was a partial take.
2. If the current land owner is not interested in purchasing the excess property and either submits a Waiver of Purchase form or fails to accept the offer to purchase after forty-five (45) days, the offer to purchase is presented to **adjoining land owner(s)**.

If the parties with statutory interest in the property, as outlined above, have been duly notified and do not demonstrate interest in purchasing the property, the excess right of way may be advertised for sale by sealed bids through public advertisement (see 8 below). The requesting party will, at that time, have the opportunity to submit a bid to purchase the property.

If any party with statutory interest demonstrates interest in purchasing the property, they are formally offered the opportunity to purchase (see 7 below).

4. Prepare Quitclaim Deed (Q-Deed)

The District Engineer reviews the survey provided by the requesting party to determine if it meets minimum standards and accurately describes the property. The Property Disposal Coordinator uses the final, approved legal description from the survey to prepare a quitclaim deed to transfer ownership of the property. The deed shall include verbiage which restricts the purchaser from using the property as a junkyard and from installing billboards. The deed shall include any applicable access and non-access language. The final deed is reviewed by the SMD (Survey, Maps, and Deeds) Section of the Roadway Design Division for accuracy.

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5. Determination of Value

The Property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of an appraisal of the subject property by a state licensed or certified appraiser. The request should include the District Engineer's recommendation for disposal, the requesting party's written request, survey, quitclaim deed, and ROW map.

Waiver Valuations will be performed on parcels wherein the computation of value is uncomplicated and the estimated value of the parcel would be less than or equal to \$10,000.00.

- a. Upon receipt of correspondence authorizing the sale of excess right of way or uneconomic remnant properties, the Property Disposal Coordinator will review the file.
- b. If the parcel value meets the above mentioned criteria, the Property Disposal Coordinator will proceed preparing a Waiver Valuation to determine the value of the parcel.
 - i. Criteria to determine the value will include, but not be limited to the size and highest/best use of the parcel.
 - ii. Analysis of the comparable sales used to value the parcel.
 - iii. Other conditions, such as availability of comparable sales or need to make adjustments to available sales, which may or may not complicate the valuation of the parcel.
 - iiii. Provide copies of the Quitclaim Deed, ROW map, and current photographs of the parcel.
- c. If comparable sales are not available in the MDOT ROW Division data base, the Property Disposal Coordinator will petition the Right of Way Operations Administrator to seek technical assistance from a current Appraisal Consultant to provide comparable sales for the parcel.
- d. The Property Disposal Coordinator will complete preparing the Waiver Valuation and submit the completed report to the Right of Way Operations Administrator. Upon the Right of Way Operations Administrator's review and approval, written confirmation will be provided to the Property Disposal Coordinator to indicate the report has been reviewed and approved.
- e. The completed and approved report will be filed in the same manner as an Appraisal and Review of excess right of way or uneconomic remnant properties.

6. FHWA Approval (if required)

FHWA approval is required to dispose of certain excess right of way, only if federal funds were expended in the acquisition of the property and based on guidelines of the current 'FHWA and MDOT Stewardship and Oversight Agreement'.

The Property Disposal Coordinator prepares a disposal packet and provides it to FHWA for approval. This packet should include a cover letter that summarizes the request for purchase, District Engineer's recommendation, requesting party's written request, original Environmental Class of Action Determination form (ENV 160) signed by the District Engineer and Environmental Division, copies of all concurrences, a copy of the survey, warranty deed from MDOT's acquisition of the property, quitclaim deed, ROW map, and appraisal. A representative from the district office will be available to accompany the FHWA representative to the property for a site inspection, if requested.

7. Offer Excess Property for sale at Appraised Value to Applicable Party (original, current, or adjoining land owner(s))

Upon receipt of all required documents, waivers, and concurrences, the Property Disposal Coordinator offers the applicable party, in writing, the opportunity to purchase the property at fair market value plus the

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10% non-negotiable transaction fee.

If the applicable party (original owner for total take, current owner for partial take, or adjoining land owner(s)) accepts the offer, he/she submits payment (cashier's check or money order) within forty-five (45) days of the offer to the Property Disposal Coordinator.

8. Advertise Offer for Sealed Bids

The Property Disposal Coordinator may request from the MTC the authority to advertise the property for sale by sealed bids through public advertisement if the applicable parties with statutory interest fail to accept the offer to purchase or waive the opportunity to purchase; or if the requesting party does not have statutory interest or he/she does not accept the offer to purchase at fair market value.

- a. The property is advertised in the local newspaper in the county in which the property is located once per week for three (3) consecutive weeks.
- b. A minimum bid will be required in the amount of 80% of the appraised value. All bids must be accompanied by a performance bond in the amount of five percent (5%) of the bid amount.
- c. The Property Disposal Coordinator received the sealed bid packet(s) and holds them in a secure location until the bid opening. The bid opening is attended by the Property Disposal Coordinator and a minimum of one witness.
- d. The results of the bid opening and the recommendation of the Property Disposal Coordinator, as approved by the Right of Way Division Director, are submitted to the Secretary of the Commission to be included on the next MTC meeting agenda for Commission approval (see Section on MTC approval). Copies of these documents are provided to the Asst. Chief Engineer, Pre-Construction and the District Engineer

The recommendation to the Commission will be one of the following:

- Accept the bid of the highest bidder
 - Reject the bid(s)
 - Reject the bid(s) and request authority to re-advertise
 - Reject the bid(s) and request authority to negotiate. Prior to entering into negotiations with a prospective purchaser, the prospective purchaser shall be notified in writing that a negotiated price for less than the appraised value will not be binding upon the Commission until it has been presented at a regular meeting and accepted. The prospective purchaser must acknowledge receipt of the notice in writing, prior to the start of any negotiation.
- e. The purchaser, upon approval of the Commission, has thirty (30) days to submit a cashier's check or money order in the amount of the purchase price, plus the ten percent (10%) non-negotiable transaction fee, less the five percent (5%) performance bond (if applicable).

9. MTC Approval of Disposal

The final recommendation for disposal, whether accomplished through direct offer or sealed bids, is submitted to the Secretary to the Commission to be included on the next MTC Meeting Agenda for Commission approval. The Property Disposal Coordinator also provides the quitclaim deed to the Secretary to the Commission. Upon MTC approval of the sale, the Secretary to the Commission obtains the Executive Director's signature on the quitclaim deed, and provides the executed deed and the Commission Order to the Property Disposal Coordinator.

10. Property Disposal Closing

Upon receipt of the executed quitclaim deed and Commission Order, the Property Disposal Coordinator:

- a. Arranges for delivery of the quitclaim deed to the appropriate courthouse for recording. Once recorded, the courthouse returns the original deed to the Property Disposal Coordinator.
- b. Transmits the payment (cashier's check or money order) to FMD for deposit, providing appropriate accounting codes.
- c. Provides copies of the recorded quitclaim deed to the SMD Section of the Roadway Design Division (with request to delete property from ROW maps).

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- d. Provides the original recorded quitclaim deed to the purchaser.
- e. Ensures XPT record is complete.

Uneconomic Remnant Property Disposal Process

Property identified as an uneconomic remnant may be offered for sale for an amount not less than the fair market value as established by the county tax assessor or a state licensed or certified appraiser. The opportunity to purchase the property is first offered to adjoining property owners.

1. District Review and Recommendation

Individuals interested in purchasing uneconomic remnant property must submit their request, in writing, to the applicable MDOT district headquarters office. The District Engineer reviews the request and, if he determines the property to be conveyable, composes a recommendation for disposal. The District Engineer sends an email packet to the Property Disposal Coordinator which includes his recommendation, requesting party's letter, Environmental Class of Action Determination form (ENV 160), and ROW map. The Property Disposal Coordinator forwards the packet to the Roadway Design, Traffic Engineering, Maintenance, Environmental, and Planning Divisions to request their concurrence with the District Engineer's recommendation. Concurrences must be submitted via email to the Property Disposal Coordinator. Once all concurrences are received, the Property Disposal Coordinator forwards the packet to the Chief Engineer for concurrence. The property cannot be offered for sale without full concurrence.

2. Identification of Parties with Statutory Interests – Title Report

Upon receipt of the District Engineer's recommendation to dispose of uneconomic remnant property, the Property Disposal Coordinator submits a request to the ROW Title Officer for the preparation of a title report. The title report is used to verify MTC ownership of the property, and to identify the adjoining land owners.

3. Request for Survey (if applicable)

If the request to purchase is for only a portion of the uneconomic remnant property identified in the warranty deed, a survey is required. In this case, the Property Disposal Coordinator contacts the requesting party, in writing, to request a survey of the property they wish to purchase, including a legal description. The survey must be performed by a licensed surveyor and meet minimum standards. The property should be staked for the benefit of the appraiser. *If the property to be sold is exactly as described in the warranty deed that was recorded during the acquisition process, a survey is not required.*

4. Notification of Adjoining Land Owners (if applicable)

The Property Disposal Coordinator contacts adjoining landowners, in writing, to notify them of the opportunity to purchase the uneconomic remnant property. Adjoining land owners are offered the first opportunity to purchase. Included in this written communication is a brief description of the uneconomic remnant property disposal process and notification of the ten (10) percent non-negotiable transaction fee.

Possible scenarios:

- a. Only one adjoining landowner
 - i. The adjoining landowner may purchase the property at fair market value plus a 10% non-negotiable transaction fee.
 - ii. If the adjoining landowner is not interested in purchasing the property and either submits a Waiver of Purchase form or fails to accept the offer to purchase after forty-five (45) days, the property may be advertised for sale by sealed bids through public advertisement (see 8 below).
- b. Multiple adjoining landowners
 - i. If there are multiple adjoining landowners, and only one is interested in purchasing the subject party, the property may be sold directly to him/her upon receipt of signed Waiver of Purchase forms from other adjoining land owners or once the forty-five (45) day window for submission of Waiver of Purchase forms has passed.
 - ii. If there are multiple adjoining land owners interested in purchasing the subject property, the parcel may be split in a manner agreed to by all parties or advertised for sale by sealed bids through public advertisement (see 8 below).
 - iii. If the requesting party is not an adjoining land owner and adjoining land owners are not interested in purchasing the property (Waiver of Purchase forms are obtained, or the forty-

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five (45) day window for submission of Waiver of Purchase forms has passed), the property may be advertised for sale by sealed bids through public advertisement (see 8 below).

- c. No adjoining landowners:
 - i. If there are no adjoining landowners and no interested parties, the uneconomic remnant may at the discretion of the Department be advertised for sale by sealed bids.
- d. Non-adjoining landowners:
 - i. If there is one interested party who is a non-adjoining landowner, the adjoining landowner(s) will be identified and notified of the first right of refusal to purchase. If the adjoining landowner(s) execute the Waiver of Purchase form or the forty-five (45) day window for submission of Waiver of Purchase form has passed with no interest expressed by the adjoining landowner(s), the property may be sold directly to the interested, non-adjoining party pursuant to the procedures outlined in this Uneconomic Remnant Disposal Process Section.
 - ii. If there are multiple, non-adjoining parties who are interested in purchasing the uneconomic remnant, the adjoining landowners will be identified and notified of the first right of refusal to purchase. If the adjoining landowner(s) execute the Waiver of Purchase form or the forty-five (45) day window for submission of Waiver of Purchase form has passed with no interest expressed by the adjoining landowner(s), the property may be advertised for sale by sealed bids pursuant to the procedures outlined in this Uneconomic Remnant Disposal Process Section.

5. Prepare Quitclaim Deed (Q-Deed)

If a survey is required, the District Engineer reviews the survey provided by the requesting party to determine if it meets minimum standards and accurately describes the property. The Property Disposal Coordinator uses the legal description from the survey or from the warranty deed (if survey is not required) that was recorded during the acquisition process to prepare a quitclaim deed to transfer ownership of the property. The deed shall include verbiage which restricts the purchaser from using the property as a junkyard and from installing billboards. The deed shall include any applicable access and non-access language. The final deed is reviewed by the SMD Section of the Roadway Design Division for accuracy.

6. Determination of Value

The Property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of an appraisal of the subject property by a state licensed or certified appraiser. The request should include the District Engineer's letter of recommendation for disposal, the requesting party's written request, quitclaim deed, and ROW map.

At MDOT's discretion, Waiver Valuations may be performed on parcels wherein the computation of value is uncomplicated and the estimated value of the parcel would be less than or equal to \$10,000.00.

- a. Upon receipt of correspondence authorizing the sale of excess right of way or uneconomic remnant properties, the Property Disposal Coordinator will review the file.
- b. If the parcel value meets the above mentioned criteria, the Property Disposal Coordinator will proceed preparing a Waiver Valuation to determine the value of the parcel.
 - i. Criteria to determine the value will include, but not be limited to the size and highest/best use of the parcel.
 - ii. Analysis of the comparable sales used to value the parcel.
 - iii. Other conditions, such as availability of comparable sales or need to make adjustments to available sales, which may or may not complicate the valuation of the parcel.

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iii. Provide copies of the Quitclaim Deed, ROW map, and current photographs of the parcel.

c. If comparable sales are not available in the MDOT ROW Division data base, the Property Disposal Coordinator will petition the Right of Way Operations Administrator to seek technical assistance from a current Appraisal Consultant to provide comparable sales for the parcel.

d. The Property Disposal Coordinator will complete preparing the Waiver Valuation and submit the completed report to the Right of Way Operations Administrator. Upon the Right of Way Operations Administrator's review and approval, written confirmation will be provided to the Property Disposal Coordinator to indicate the report has been reviewed and approved.

e. The completed and approved report will be filed in the same manner as an Appraisal and Review of excess right of way or uneconomic remnant properties.

7. FHWA Approval (if required)

FHWA approval is required to dispose of certain properties located outside of the limits of the right of way, only if federal funds were expended in the acquisition of the property and based on guidelines of the current 'FHWA and MDOT Stewardship and Oversight Agreement'.

The Property Disposal Coordinator prepares a property disposal packet and provides it to FHWA for approval. This packet should include a cover letter that summarizes the request for purchase, District Engineer's recommendation, requesting party's written request, original Environmental Class of Action Determination form (ENV 160) signed by the District Engineer and Environmental Division, copies of all concurrences, warranty deed from MDOT's original acquisition of the property, survey (if applicable) quitclaim deed, ROW map, and appraisal. A representative from the district office will be available to accompany the FHWA representative to the property for a site inspection, if requested.

8. Offer Uneconomic Remnant Property for Sale at Appraised Value (if requesting party is adjoining land owner)

Upon receipt of all required documents, waivers, and concurrences, the Property Disposal Coordinator offers the requesting party, in writing, the opportunity to purchase the property at fair market value plus the 10% non-negotiable transaction fee. If the requesting party accepts the offer, he/she submits a cashier's check or money order within forty-five (45) days of the offer to the Property Disposal Coordinator.

9. Advertise Offer for Sealed Bids

The Property Disposal Coordinator may request from the MTC the authority to advertise the property for sale by sealed bids through public advertisement if the applicable parties with statutory interest fail to accept the offer to purchase or waive the opportunity to purchase; or if the requesting party does not have statutory interest or he/she does not accept the offer to purchase at fair market value.

a. The property is advertised in the local newspaper in the county in which the property is located once per week for three (3) consecutive weeks.

b. A minimum bid will be required in the amount of 80% of the appraised value. All bids must be accompanied by a performance bond in the amount of five percent (5%) of the bid amount.

c. The Property Disposal Coordinator received the sealed bid packet(s) and holds them in a secure location until the bid opening. The bid opening is attended by the Property Disposal Coordinator and a minimum of one witness.

d. The results of the bid opening and the recommendation of the Property Disposal Coordinator, as approved by the Right of Way Division Director, are submitted to the Secretary of the Commission to be included on the next MTC meeting agenda for Commission approval (see Section on MTC approval). Copies of these documents are provided to the Asst. Chief Engineer, Pre-Construction and the District Engineer

The recommendation to the Commission will be one of the following:

- Accept the bid of the highest bidder
- Reject the bid(s)

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- Reject the bid(s) and request authority to re-advertise
- Reject the bid(s) and request authority to negotiate. Prior to entering into negotiations with a prospective purchaser, the prospective purchaser shall be notified in writing that a negotiated price for less than the appraised value will not be binding upon the Commission until it has been presented at a regular meeting and accepted. The prospective purchaser must acknowledge receipt of the notice in writing, prior to the start of any negotiation.

e. The purchaser, upon approval of the Commission, has thirty (30) days to submit a cashier's check or money order in the amount of the purchase price, plus the ten percent(10%) non-negotiable transaction fee, less the five percent (5%) performance bond (if applicable).

10. MTC Approval of Disposal

The final recommendation for disposal, whether accomplished through direct offer to an adjoining land owner or through sealed bids, is submitted to the Secretary to the Commission to be included on the next MTC Meeting Agenda for Commission approval. The Property Disposal Coordinator also provides the quitclaim deed to the Secretary to the Commission. Upon MTC approval of the sale, the Secretary to the Commission obtains the Executive Director's signature on the quitclaim deed, and provides the executed deed and the Commission Order to the Property Disposal Coordinator.

11. Property Disposal Closing

Upon receipt of the executed quitclaim deed and Commission Order, the Property Disposal Coordinator:

- a. Arranges for delivery of the quitclaim deed to the appropriate courthouse for recording. Once recorded, the courthouse returns the original deed to the Property Disposal Coordinator.
- b. Transmits the payment (cashier's check or money order) to FMD for deposit, providing appropriate accounting codes.
- c. Provides copies of the recorded quitclaim deed to the SMD Section of the Roadway Design Division (with request to delete property from ROW maps).
- d. Provides the original recorded quitclaim deed to the purchaser.
- e. Ensures XPT record is complete.

Access Rights Disposal Process

1. District Review and Recommendation

Individuals interested in purchasing access rights must submit their request, in writing, to the applicable MDOT district headquarters office. The District Engineer reviews the request and, if it's determined the access rights can be sold, composes a recommendation for disposal. The District Engineer sends an email packet to the Property Disposal Coordinator which includes the recommendation, requesting party's letter, Environmental Class of Action Determination form (ENV 160), and ROW map. The Property Disposal Coordinator forwards the packet to the Roadway Design, Traffic Engineering, Maintenance, Environmental, and Planning Divisions to request their concurrence with the District Engineer's recommendation. Concurrences must be submitted via email to the Property Disposal Coordinator. Once all concurrences are received, the Property Disposal Coordinator forwards the packet to the Chief Engineer for concurrence. The access rights cannot be offered for sale without full concurrence.

2. Prepare Conveyance of Access Rights deed

The District Engineer reviews the survey provided by the requesting party to determine if it meets minimum standards and accurately describes the property. The Property Disposal Coordinator uses the final, approved legal description from the survey to prepare a Conveyance of Access Rights deed to transfer the rights of access. The final deed is reviewed by the SMD (Survey, Maps, and Deeds) Section of the Roadway Design Division for accuracy.

3. Request Appraisal

The Property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of an appraisal for the conveyance of access rights by a state licensed or certified appraiser. The request should include the District Engineer's recommendation for disposal, the requesting party's

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written request, survey, Conveyance of Access Rights deed, and ROW map.

4. FHWA Approval (if required)

FHWA approval is required to dispose of certain excess right of way, only if federal funds were expended in the acquisition of the property and based on guidelines of the current 'FHWA and MDOT Stewardship and Oversight Agreement'.

The Property Disposal Coordinator prepares a disposal packet and provides it to FHWA for approval. This packet should include a cover letter that summarizes the request for purchase, District Engineer's recommendation, requesting party's written request, original Environmental Class of Action Determination form (ENV 160) signed by the District Engineer and Environmental Division, copies of all concurrences, a copy of the survey, warranty deed from MDOT's acquisition of the property, Conveyance of Access Rights deed, ROW map, and appraisal. A representative from the district office will be available to accompany the FHWA representative to the property for a site inspection, if requested.

5. **Offer the access rights for sale at the fair market appraised value.** The Property Disposal Coordinator offers the requestor, in writing, the opportunity to purchase the access rights at fair market value plus the 10% non-negotiable transaction fee.

6. MTC Approval of Disposal

The final recommendation for disposal is submitted to the Secretary to the Commission to be included on the next MTC Meeting Agenda for Commission approval. The Property Disposal Coordinator also provides the Conveyance of Access Rights deed to the Secretary to the Commission. Upon MTC approval of the sale, the Secretary to the Commission obtains the Executive Director's signature on the Conveyance of Access Rights deed, and provides the executed deed and the Commission Order to the Property Disposal Coordinator.

7. Property Disposal Closing

Upon receipt of the executed Conveyance of Access Rights deed and Commission Order, the Property Disposal Coordinator:

- a. Arranges for delivery of the Conveyance of Access Rights deed to the appropriate courthouse for recording. Once recorded, the courthouse returns the original deed to the Property Disposal Coordinator.
- b. Transmits the payment (cashier's check or money order) to FMD for deposit, providing appropriate accounting codes.
- c. Provides copies of the recorded Conveyance of Access Rights deed to the SMD Section of the Roadway Design Division (with request to delete property from ROW maps).
- d. Provides the original recorded Conveyance of Access Rights deed to the purchaser.
- e. Ensures XPT record is complete.

Utility Easements Disposal Process

In some cases, MDOT will convey a utility company an easement having a long-term impact on the property it continues to own. In those cases, MDOT is conveying a less than fee interest "encumbering" its remaining ownership. This MDOT owned property is surplus right of way or an uneconomic remnant located outside of the current operating right of way limits that has no present transportation purpose and that the Mississippi Transportation Commission or authorized designee has determined, in writing, has no future transportation purpose.

Environmental Review

All disposal actions and ROW use agreements, including leasing actions are subject to the environmental review requirements set forth in 23 CFR 771.

Under 23 CFR 771.117(d)(6) such dispositions, if they do not involve a significant adverse impact, may be done subject to a categorical exclusion (CE).

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1. **The District Review and Recommendation.** The District Engineer sends an email packet to the Property Disposal Coordinator which includes his recommendation, requesting party's letter, utility easement instrument(s) with plat, and ROW map.
2. **Concurrences.**

The Property Disposal Coordinator forwards the packet to the Roadway Design, Traffic Engineering, Maintenance, Environmental, and Planning Divisions to request their concurrence with the District Engineer's recommendation. Concurrences must be submitted via email to the Property Disposal Coordinator. Once all concurrences are received, the Property Disposal Coordinator forwards the packet to the Chief Engineer for concurrence. The easement(s) cannot be offered for sale without full concurrence.
3. **Request Appraisal.** The property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of an appraisal of the subject property by a state licensed or certified appraiser. The request should include the District Engineer's recommendation for disposal, the requesting party's written request, utility easement instrument(s) with plat, and ROW map.
4. **FHWA Approval (if required)**

FHWA approval is required to dispose of certain excess right of way, only if federal funds were expended in the acquisition of the property and based on guidelines of the current 'FHWA and MDOT Stewardship and Oversight Agreement'.

The Property Disposal Coordinator prepares a disposal packet and provides it to FHWA for approval. This packet should include a cover letter that summarizes the request for purchase, District Engineer's recommendation, requesting party's written request, original Environmental Class of Action Determination form (ENV 160) signed by the District Engineer and Environmental Division, copies of all concurrences, a copy of the survey, warranty deed from MDOT's acquisition of the property, utility easement instrument(s) with plat, ROW map, and appraisal. A representative from the district office will be available to accompany the FHWA representative to the property for a site inspection, if requested.
5. **Offer the easements for sale at the fair market appraised value.** The Property Disposal Coordinator offers the requestor, in writing, the opportunity to purchase the easement(s) at fair market value plus the 10% non-negotiable transaction fee.
- If the requestor accepts the offer, he/she submits payment (cashier's check or money order) within forty-five (45) days of the offer to the Property Disposal Coordinator.
6. **MTC approval of disposal.** The final recommendation for disposal is submitted to the Secretary to the Commission to be included on the next MTC Meeting Agenda for Commission approval. The Property Disposal Coordinator also provides the utility easement instrument(s) to the Secretary to the Commission. Upon MTC approval of the sale, the Secretary to the Commission obtains the Executive Director's signature on the utility easement instrument(s) and provides the executed instrument(s) and the Commission Order to the Property Disposal Coordinator.
7. **Property Disposal Closing.** Upon receipt of the executed utility easement instrument(s) and Commission Order, the Property Disposal Coordinator:
 - a. Arranges for delivery of the utility easement instrument(s) to the appropriate courthouse for recording. Once recorded, the courthouse returns the original deed to the Property Disposal Coordinator.
 - b. Transmits the payment (cashier's check or money order) to FMD for deposit, providing appropriate accounting codes.
 - c. Provides copies of the recorded utility easement instrument(s) to the SMD Section of the Roadway Design Division.
 - d. Provides the original recorded utility easement instrument(s) to the purchaser.

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- e. Ensures XPT record is complete to record the encumbrance against the “fee” owned inventory.

Pre-Whitworth Easement Disposal Process

Pre-Whitworth Easements are defined as all those interests in property acquired by the State Highway Commission of Mississippi prior to September 14, 1949. In *Whitworth, et al v. Mississippi State Highway Commission*, 33 So. 2nd 612 (1948), the Supreme Court of Mississippi ruled that prior to this date state law did not allow the State Highway Commission to acquire fee title, but only an easement. MDOT disposes of these properties in conjunction with the Office of the Attorney General.

Per the provisions of the Commission Order dated November 12, 2002 and filed in Minute Book 19, Pages 1222 and 1223, the MTC declares that, when any easement is released at the request of adjoining land owner or underlying fee title holder, an amount equal to thirty percent (30%) of the fair market value of the property shall be paid by the person making such request. After the payment of this amount, the Declaration of Abandonment and Release of Easement may be executed by the Executive Director of the Department of Transportation, and filed in the appropriate land records.

Individuals interested in Pre-Whitworth easements must submit their request, in writing, to the applicable district headquarters office. The District Engineer reviews the request and, if he determines the property to be conveyable, composes a recommendation for disposal. The District Engineer prepares and sends an email packet to the Property Disposal Coordinator which includes his recommendation, requesting party's letter, Environmental Class of Action Determination form (ENV 160), and ROW map. The Property Disposal Coordinator forwards the packet to the Roadway Design, Traffic Engineering, Maintenance, Environmental, and Planning Divisions to request their concurrence with the District Engineer's recommendation. Concurrences must be submitted via email to the Property Disposal Coordinator. Once all concurrences are received, the Property Disposal Coordinator forwards the packet to the Chief Engineer for concurrence. Upon receipt of full concurrence, the Property Disposal Coordinator forwards the disposal packet to the Office of the Attorney General. The Office of the Attorney General completes the disposal process, requesting information and assistance from the Property Disposal Coordinator as needed. The Office of the Attorney General:

- a. Instructs the requesting party to file a petition to quiet and confirm title of the underlying fee interest with the chancery court in the county where the property is located.
- b. Once petition is filed, requests that the Property Disposal Coordinator obtain a legal description and a survey of the property from the requesting party. The survey must be performed by a licensed surveyor and meet minimum standards. The property should be staked for the benefit of the appraiser.
- c. Upon receipt of the legal description and survey, requests that the Property Disposal Coordinator submit a request to the ROW Operations Administrator for the preparation of an appraisal of the subject property by a state licensed or certified appraiser to determine fair market value.
 - Upon receipt of the appraisal, the Property Disposal Coordinator prepares a disposal packet and provides it to FHWA for approval (if required). This packet should include a cover letter that summarizes the request for purchase, District Engineer's recommendation, requesting party's written request, original Environmental Class of Action Determination form (ENV 160) signed by the District Engineer and Environmental Division, copies of all concurrences, a copy of the legal description and survey, warranty deed from MDOT's acquisition of the property, ROW map, and appraisal. A representative from the district office will be available to accompany the FHWA representative to the property for a site inspection, if requested.
 - The Property Disposal Coordinator forwards FHWA concurrence (if required) and appraisal to the Office of the Attorney General.
- d. Notifies the requesting party of the fair market value of the property as determined by the appraiser.

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- e. Instructs the requesting party to provide a certified check or money order for 30% of the fair market value, made payable to the Mississippi Transportation Commission and addressed to the Office of the Attorney General.
- f. Once payment has been received and the chancery court has issued an order for the MTC to execute a Declaration of Abandonment and Release of Easement, the Office of the Attorney General submits an item to the Secretary to the Commission to be included on the Commission Agenda. This item authorizes the Executive Director to execute the Declaration of Abandonment and Release of Easement in settlement of the petition.
- g. Files the executed Declaration of Abandonment and Release of Easement in the appropriate county land records and provides a copy to the requesting party.
- h. Upon completion of the property transfer the Office of the Attorney General provides a copy of the executed Declaration of Abandonment and Release of Easement to the Property Disposal Coordinator for filing purposes.
 - The Property Disposal Coordinator ensures the XPT record is complete and provides copies of the executed Declaration of Abandonment and Release of Easement to the SMD Section of the Roadway Design Division (with request to delete property from ROW maps).

Maintenance Lots

When maintenance lots are abandoned by the district, the District Engineer may recommend the sale of the lot and any improvements located thereon.

1. District Recommendation

The District Engineer composes a recommendation for disposal. The District Engineer sends an email packet to the Property Disposal Coordinator which includes his recommendation, Environmental Class of Action Determination form (ENV 160), survey and ROW map. The Property Disposal Coordinator forwards the request to the Chief Engineer.

2. Title Report

Upon receipt of the District Engineer's recommendation to dispose of maintenance lot property, the Property Disposal Coordinator submits a request to the ROW Title Officer for the preparation of a title report. The title report is used to verify MTC ownership of the property.

3. Survey

If not included in the recommendation from the District Engineer, a survey with legal description must be provided by the district.

4. Prepare Quitclaim Deed (Q-Deed)

The Property Disposal Coordinator uses the legal description from the survey to prepare a quitclaim deed to transfer ownership of the property. The deed shall include verbiage which restricts the purchaser from using the property as a junkyard and from installing billboards. The deed shall include any applicable access and non-access language. The final deed is reviewed by the SMD Section of the Roadway Design Division for accuracy.

5. Determination of Value

The Property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of an appraisal of the subject property by a state licensed or certified appraiser. The request should include the District Engineer's letter of recommendation for disposal, quitclaim deed, survey and ROW map.

6. Advertise Offer for Sealed Bids

The Property Disposal Coordinator may request from the MTC the authority to advertise the property for

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sale by sealed bids through public advertisement if the applicable parties with statutory interest fail to accept the offer to purchase or waive the opportunity to purchase; or if the requesting party does not have statutory interest or he/she does not accept the offer to purchase at fair market value.

- a. The property is advertised in the local newspaper in the county in which the property is located once per week for three (3) consecutive weeks.
- b. A minimum bid will be required in the amount of 80% of the appraised value. All bids must be accompanied by a performance bond in the amount of five percent (5%) of the bid amount.
- c. The Property Disposal Coordinator received the sealed bid packet(s) and holds them in a secure location until the bid opening. The bid opening is attended by the Property Disposal Coordinator and a minimum of one witness.
- d. The results of the bid opening and the recommendation of the Property Disposal Coordinator, as approved by the Right of Way Division Director, are submitted to the Secretary of the Commission to be included on the next MTC meeting agenda for Commission approval (see Section on MTC approval). Copies of these documents are provided to the Asst. Chief Engineer, Pre-Construction and the District Engineer

The recommendation to the Commission will be one of the following:

- Accept the bid of the highest bidder
 - Reject the bid(s)
 - Reject the bid(s) and request authority to re-advertise
 - Reject the bid(s) and request authority to negotiate. Prior to entering into negotiations with a prospective purchaser, the prospective purchaser shall be notified in writing that a negotiated price for less than the appraised value will not be binding upon the Commission until it has been presented at a regular meeting and accepted. The prospective purchaser must acknowledge receipt of the notice in writing, prior to the start of any negotiation.
- e. The purchaser, upon approval of the Commission, has thirty (30) days to submit a cashier's check or money order in the amount of the purchase price, plus the ten percent(10%) non-negotiable transaction fee, less the five percent (5%) performance bond (if applicable).

7. MTC Approval of Disposal

The final recommendation for disposal is submitted to the Secretary to the Commission to be included on the next MTC Meeting Agenda for Commission approval. The Property Disposal Coordinator also provides the quitclaim deed to the Secretary to the Commission. Upon MTC approval of the sale, the Secretary to the Commission obtains the Executive Director's signature on the quitclaim deed, and provides the executed deed and the Commission Order to the Property Disposal Coordinator.

8. Property Disposal Closing

Upon receipt of the executed quitclaim deed and Commission Order, the Property Disposal Coordinator:

- a. Arranges for delivery of the quitclaim deed to the appropriate courthouse for recording. Once recorded, the courthouse returns the original deed to the Property Disposal Coordinator.
- b. Transmits the payment (cashier's check or money order) to FMD for deposit, providing appropriate accounting codes.
- c. Provides copies of the recorded quitclaim deed to the SMD Section of the Roadway Design Division (with request to delete property from ROW maps).
- d. Provides the original recorded quitclaim deed to the purchaser.
- e. Ensures XPT record is complete.

NOTE: IF the maintenance lot was acquired as right of way or pre-Whitworth, it must be disposed of using the applicable excess right of way or pre-Whitworth procedures.

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Lease

When property that has been acquired by MDOT will not be utilized in the near future, the District Engineer may lease or rent the property for its market rent.

1. District Recommendation

The District Engineer composes a recommendation for lease or rent. The District Engineer sends an email packet to the Property Disposal Coordinator with a copy to the Attorney General's office which includes the recommendation, requesting party's letter and a survey.

2. Title Report

Upon receipt of the District Engineer's recommendation to lease the property, the Property Disposal Coordinator submits a request to the ROW Title Officer for the preparation of a title report. The title report is used to verify MTC ownership of the property.

3. Request Market Rent Study

The Property Disposal Coordinator submits a request to the ROW Operations Administrator for the preparation of a market rent study of the subject property by a state licensed or certified appraiser. The request should include the District Engineer's recommendation for leasing, the requesting party's written request and a survey. Upon Completion, the MDOT market rent study is provided to the Attorney General's office with a copy to the Property Disposal Coordinator.

4. Prepare the Lease

The Attorney General's office is responsible for preparing the lease based on the terms stated by the District Engineer.

5. MTC Approval of Lease

The final recommendation for the lease is submitted to the Secretary to the Commission by the Attorney General's office to be included on the next MTC Meeting Agenda for Commission approval.

6. Oversee Property

The district is responsible for overseeing the property and collecting the rent.

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The following procedures document the responsibilities of Right of Way Agents for acquiring property needed for public transportation projects. Real property interests are acquired by donation, purchase, or eminent domain proceedings. "Right of Way Agents" include but are not limited to Right of Way Consultants contracted by the Mississippi Department of Transportation to provide Right of Way Services.

Please review all pertinent chapters of the Right of Way Operations Manual and the Roadway Design Division (RWD) – Survey, Map & Deed Section Operations Manual.

Oversight of the acquisition function is conducted by the Right of Way Division Operations Administrator. The MDOT uses consultants to perform the acquisition function. The following are the oversight responsibilities of the Operations Administrator.

- Monitor consultant assignment for compliance with MDOT policies, procedures and contract specification for quality control.
- Resolve acquisition problems and issues.
- Ensure that the selected consultant is qualified to accomplish the assigned task.
- Interpretation of official instructions and/or rules, contracts or agreements.
- Ensure proper distribution of work product to other MDOT Right of Way Sections and Divisions or MDOT consultants.
- Return significantly incomplete assigned work to the consultant and consider invoking contract provisions for dismissal of consultant.

Forms

The current Right of Way Appraisal and Acquisition forms are on the MDOT@Work site and are maintained by the ROW Operations Administrator.

Acquisition Requirements and Policies

1.1 Authorized Acquisition Agents

Only authorized MDOT Right of Way Division employees and consultants, attorneys representing MDOT, or private firms contracted by the Mississippi Transportation Commission to provide right of way services, and other state or local governmental agencies under written agreement may acquire land for the Mississippi Transportation Commission.

1.2 Confidential Appraisals

Field Agents must not share appraisals with property owners or other interested parties. Field Agents may inform the property owner which comparable properties were used in the MDOT appraisal, if requested. Acquisition Agents may explain to property owners how the appraisal process is completed, generally, for any property.

1.3 Conflict of Interest¹

Acquisition Agents cannot have any interest, direct or indirect, in the real property being acquired that would in any way conflict with the acquisition.

1.4 Initial Contact and Offer²

MDOT will make reasonable efforts to contact the property owner(s) or the authorized representative(s) to discuss: (1) MDOT's written Fair Market Value Offer (FMVO) to purchase

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the property, including the basis for the amount of just compensation; and (2) MDOT's acquisition policies and procedures.

1.5 Expeditious Acquisition³

MDOT makes every reasonable effort to acquire real property expeditiously through agreements with property owners.

1.6 Prohibition of Coercive Action⁴

MDOT will not advance the time of condemnation, defer the acquisition process, defer condemnation, defer the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property. (*See section 9.*)

1.7 Incidental Expenses⁵

The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property.

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property.

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

Whenever feasible, the Agency shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

1.8 Appeals

The property owner, or other interested party, may appeal the amount of reimbursement of expenses related to transfer of title or litigation, the amount of the FMVO, or other considerations. The property owner must be given the opportunity to present evidence, including but not limited to, comparable sales data and appraisals that is contrary to the amount of reimbursement of expenses related to transfer of title or litigation, the amount of the FMVO, or other considerations.

Acquisition Preparation Procedures

2.0 Project Acquisition Kickoff Meeting

Upon receipt of the project start date, the District Coordinator schedules a "project acquisition kickoff meeting" through appropriate personnel. The "project acquisition kickoff meeting" is a short meeting of the entire acquisition project team to establish the basic project objectives.

The project acquisition kickoff meeting is held prior to the performance of the appraisal process on the project. The topics discussed include the following:

1. Project start and end dates, if known
2. Contract letting schedule and desired possession date
3. Project purpose and benefits
4. Contact information for all appropriate project personnel
5. Review of maps
6. Identification of improved/unimproved parcels that were scoped to be appraised or valued utilizing Waiver Valuations
7. Discuss Staffing
8. Establish timelines
9. Identify priority parcels. Priority parcels may include those involving relocation of displacees, relocation of utilities, or other complex parcels (such as, those involving

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improvements, hazardous waste, government agencies, partnerships, businesses, churches, casinos, associations, estates, multiple owners, and out-of-state owners). Number and size of underground storage tanks as well as any other information on potentially contaminated sites.

10. Review environmental commitments.

11. Review special construction features.

2.1 Materials furnished to Acquisition Agents

- The ROW Acquisition Maps can be found in the Parcel Tracking System.
- An electronic file containing templates for FMVO, FMVO- X-Deed, Contact Report, Record of Heirs Form, 14 day Notice for Condemnation, Approved Clauses, Corporate Resolution and Order, Division of Proceeds, Project Status Report, Waiver Valuation, Establishment of Just Compensation, Deed Request, Partial Release Request, Third Party Release, Right of Way Invoice, Right of Way Invoice Codes, Agent Closing Statement, Bill of Sale-Mobile Home, Acknowledgments, Internal Revenue W-9 form, and Waiver of Appraisal form, distributed by the District Coordinator.

2.2 Acquisition File Preparation

For each parcel assigned to them, the Acquisition Agent will find the following instruments and documents in the PTS parcel file room:

- Title abstract
- Deeds
- Appraisal

2.3 Review of Appraisal and Other Acquisition Materials

The Acquisition Agent reviews all material for an informed offer. If relocation is a factor in the acquisition, all materials are reviewed jointly with the Relocation Agent. Involvement of relocation is designated on the Review Appraiser Report. The Acquisition Agent familiarizes themselves with all factors that relate to the acquisition effort. Each factor is listed on the Pre-Acquisition Checklist, provided below.

Pre-Acquisition Checklist as Necessary:

- Access controls
- Plans for replacing or moving utilities (water, gas, electric, phone and sewage lines, septic tanks, meters, utility poles, water towers, fire hydrants, water wells, public buildings or facilities)
- Comparable sales and other appraisal data supporting the FMVO.
- Appraised per acre value.
- Location of the property, according to stakes, including distances from existing highway centerline, and distance of current ROW from current highway centerline
- Ingress/egress ramp(s) before and after construction, as shown on ROW Acquisition Map
- Driveway widths allowed after construction and any existing wider driveways
- Number of lanes each direction
- Highway crossover locations on survey map
- Turn lane start and end points
- Location of present ROW markers
- Location of proposed ROW markers
- Signs on the ROW
- Purpose of acquiring the parcel
- Parcel status with Property Management Section. Cleared for acquisition?
- Status of parcel staking. If parcel is not staked, contact the District Coordinator
- Need for the agency to remove fuel tanks

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- Property category in appraisal (agricultural, residential, timberland, commercial, etc.)
- Existence of any timber to be acquired.
- Structures or other improvements to be moved.
- Section, Township, Range are correct and match abstract and tax maps
- If parcel is in a city, the city is named in the indexing instructions
- Directions and distances (calls) are correct
- Hectares and acres are correct
- Access and non-access language in the deed are correct
- Name(s) on deed are correct and match the abstract
- Who must sign the deed and how they must sign their names
- Each partial release instrument is listed or implied in abstract
- Environmental commitments
- Need for any clause(s) in the deed (A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual.)
- Need for Resolution and Order to be attached to the deed
- Deeds and ROW Acquisition Maps match

2.4 Appraisal Amendments

If information presented by the property owner or a material change in the character or condition of the property indicates the need for a new appraisal, or if the time lapse between the appraisal completion date and date of FMVO is **one (1) year or more**, a new or amended appraisal must be prepared.⁶ If a new or amended appraisal must be prepared, the Acquisition Agent returns the appraisal documents to the District Coordinator who will provide them to the Review Appraiser. If the latest appraisal indicates that a change in the FMVO is warranted, the Acquisition Agent promptly updates the FMVO and provides the revised FMVO to the property owner.⁷

2.5 Map Revisions

During the life of a project, revisions may be made to maps and deeds to correct inaccuracies, accommodate project/plan changes, identify new land transfers, etc. The revised maps and deeds can be obtained from the Parcel Tracking System.

3. Acquisition Procedures

3.1 Initial Acquisition Agent-Property Owner Contact (Introductory Phone Call)

The Acquisition Agent's initial contact with the property owner(s) or authorized representative(s) is normally a telephone call to schedule an onsite meeting. If the property owner does not have a phone, the Acquisition Agent leaves a note and a business card attached to the property owner's door. During this telephone call, the Acquisition Agent covers the following items:

- Explains the purpose of the meeting and informs the property owner(s) or authorized representative(s) that they are an Acquisition Agent and that they would like to meet with them to buy the property (and possibly other improvements). If relocation is involved, the Acquisition Agent explains that a relocation agent also will be assisting in relocation.
- Establishes a meeting time and place (the site of the property being acquired).
- Provides contact information, including an office and cell phone number.
- Verifies the property owner(s)'s full name to ensure the deed instrument(s) is correct.
- Requests that all property owners and spouses are present at the initial on-site meeting. If all property owners are not present, the Acquisition Agent must schedule additional meetings with the other property owners. All parties with an interest in the property (including heirs, estates, powers of attorney, churches, etc.) must be contacted and provided a FMVO, ROW Acquisition Map, *Citizen's Right of Way Acquisition Guide*, and

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an explanation of how the acquisition will affect the remaining property.

3.2 Property Owner Meeting(s)

Following the initial introductory contact, it is preferred that property owner meetings be held in person. In some situations, communication may be conducted by telephone and/or by mail or electronic mail (e-mail), if necessary (for example, an out-of-state property owner).

The FMVO may be presented at the initial property owner meeting. Alternatively, more property owner meetings may be required prior to the Acquisition Agent's presentation of the FMVO. The purposes of these additional meetings may be to clear issues, clear title, obtain needed information, etc. Each acquisition is different and the Acquisition Agent adjusts and meets with the property owner as appropriate.

It should be noted that to meet minimum FHWA requirements, the property owner must be provided with an FMVO, the ROW Acquisition Map, and the *Citizen's Right of Way Acquisition Guide*. Please see Section 3 of this Chapter of the Right of Way Operations Manual for additional information on procedures regarding FMVO provision.

If relocation is a factor for the parcel, the Relocation Agent attends the property owner meeting, at which the FMVO is presented by the Acquisition Agent. It is the Acquisition Agent's responsibility to schedule the meeting with the Relocation Agent and property owner. All contact and communication with the property owner and other interested parties is documented (see Section 9.2 of this Chapter of the Right of Way Operations Manual for a discussion of the Contact Report).

During the initial in-person property owner meeting, the Acquisition Agent conducts the following activities:

- Provides *Citizen's Right of Way Acquisition Guide*
- Provides ROW Acquisition Map with area to be acquired highlighted
- Explains ROW Acquisition Map noting the before and after condition of the property
- Inquiries about condition of the Title
- Explains construction features affecting the remainder
- Inquires if there are mortgages, judgments, liens, etc. of which the agent is not aware
- When multiple signatories required, determines who should be listed on the check(s)
- Enters appropriate clauses in the deed(s) (A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual.)
- Explains that the payment check will be made payable to all property owners, mortgage holders, judgment claimants, lien holders, lis pendens claimants, Quitclaim Deed interests, and any spouses who have homestead rights on the property, unless separate checks are requested.
- Inquires if there are additional renters or leases. If so, asks for a copy of the lease agreement and sends it to the District Coordinator to determine if a Quitclaim Deed is needed.
- Informs property owner(s) that the agency must acquire all interests before the deed(s) is accepted, recorded, and paid.
- Ensures all pages of any deed or easement are initialed by the property owner(s) and the Acquisition Agent.

3.3 Uneconomic Remnants⁸

If the acquisition of a portion of a property leaves the property owner with a remainder that is of little or no value to the property owner, the agency offers to acquire the uneconomic remnant along with the portion of the property needed for the transportation project. The uneconomic remnant is acquired as an uneconomic remnant property. The agency does not acquire uneconomic remnants through eminent domain. The FMVO for the uneconomic

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remnant property states that the FMVO expires 90 days after Mississippi Transportation Commission obtains title to the property necessary for the construction of the project by deed, or immediately following recommendation for condemnation.

If agreement on the terms for the ROW acquisition cannot be reached, eminent domain proceedings begin for the ROW (See Section 8 of this Chapter of the ROM and the Legal Chapter of the Right of Way Operations Manual for additional information on eminent domain proceedings). Property owners will be advised that eminent domain will not include uneconomic remnant property.

3.4 Changes in Ownership, Judgments, or Liens

If the Acquisition Agent is informed of potential changes in ownership, judgments, liens, etc. through either the property owner or another source, the Acquisition Agent verifies this information according to the procedures below:

- A. Change in Ownership.** If a property owner states that they have sold the property or if the Acquisition Agent obtains other information regarding ownership of the parcel that is inconsistent with the project abstract/deed, the Acquisition Agent notifies the District Coordinator who then sends a request for a title update to the Title Officer.
- B. Change in Judgment or Lien.** If there has been a potential change in a judgment or lien, the Acquisition Agent verifies the change at the Courthouse and obtains a copy of the most recent documentation. The Acquisition Agent then attaches this new documentation to the deed and sends the deed and documentation to the District Coordinator who forwards it to the Title Section Officer for updating of the abstract. If the judgment value is greater than that of the acquisition offer, the acquisition then goes to condemnation, unless the property owner pays off the judgment. The Acquisition Agent, however, does not wait for documentation of the potential change to obtain signatures on deeds. The Acquisition Agent may request that the property owner sign the deed before pursuing verification of the potential change at the Courthouse.

If the property owner states that the mortgage is paid in full or cancelled, but the abstract lists a mortgage or lien holder, the Acquisition Agent obtains a copy of the cancellation at the Courthouse as documentation. Once this documentation is obtained the lien holder's name is not required on the check. Alternatively, the Acquisition Agent may request the property owner to provide a copy of the "Authority to Cancel" or a Deed of Trust with "Cancellation" stamped on it from the Chancery Clerks office. The Acquisition Agent also may review the "Authority to Cancel" books and the Deed of Trust books at the Chancery Clerks office to obtain a copy of a canceled mortgage. The cancellation is recorded in the "Authority to Cancel" book and the original Deed of Trust is stamped satisfied and canceled.

In the instance of change of ownership or a change in a Judgment or Lien, the Acquisition Agent may be unable to obtain the supporting documentation. If this occurs, the Acquisition Agent simply notifies the District Coordinator that a title update is needed. The District Coordinator then requests a title update from the Title Officer.

- C. Dissolved Corporation.** Since acquisitions involving dissolved corporations are rare occurrences, the Acquisition Agent seeks guidance from the Title Section. If a property is listed as owned by a corporation, and the property owner claims the corporation is dissolved, the corporation must have been formally dissolved by a meeting of the board, a Resolution and Order, and then formally recorded and dissolved by the Office of Secretary of State. If the owner of a corporation dies, the corporation is not automatically dissolved. The corporation's assets must have been properly distributed. If land was distributed by deed, it must be recorded at the County Chancery Clerk's office.
- D. Bankruptcy, Federal Tax Liens, State Tax Liens.** If a property is in bankruptcy or has federal or state tax liens, the Acquisition Agent consults with the District Coordinator and Title Officer for the appropriate acquisition procedures.

3.5 Deed Clauses

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The Attorney General's Office maintains a list of approved standard deed clauses as well as alternate deed clauses for use when a property owner objects to a standard clause. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual as well as in the electronic file mentioned in Section 1.2 of this document.

The Acquisition Agent determines before, or at, the initial contact meeting if deed clauses are needed. If it is unclear whether a deed clause is needed, the Acquisition Agent contacts the District Coordinator for direction. If it is clear at the initial meeting which deed clause is needed, the Acquisition Agent includes the clause on deed and explains it to property owner, prior to asking them to sign deed.

Prior to replacing a standard deed clause with an alternate deed clause, the Acquisition Agent obtains approval from the District Coordinator. The Attorney General's Office must approve any change in the wording of a standard, or an alternate, deed clause on a case-by-case basis. Insertion of unapproved deed clauses, or unapproved changes to deed wording, by the property owner are not accepted by MDOT. Only clauses that are pre-approved by MDOT, and written exactly from the MDOT list of approved clauses, can be inserted in the deed.

The property owner and Acquisition Agent must initial all changes on deeds.

3.6 Homestead Rights

On property that is defined as the homestead, the spouse of the property owner also must sign all deeds and instruments.

3.7 Heir Searches

The Acquisition Agent conducts an heir search when the property owner shown in the abstract is deceased. Upon receiving notification to provide heir information, the Acquisition Agent takes the following actions:

- Assembles all known heir information.
- Searches the following potential sources of heir information, as applicable: current property owner(s), relatives, neighbors, attorneys, MDOT and county ROW records, banks, real estate offices, US Post Office, county courthouse records (wills, deeds, marriage, divorce), State Department of Health records (birth, death certificates), churches, funeral homes, cemetery records, schools, census, etc.
- Obtains copies of deeds, wills, birth certificates, death certificates, and other documents or records.
- Requests heir information in writing [see Acquisition Forms Index - Identification of Heirs Letter] and requests information providers to complete and sign the Record of Heirs Form
- If the heirship information provided in the title abstract or obtained by the Acquisition Agent is extremely complex, the Acquisition Agent should consult with the District Coordinator who will then consult with the Title Officer as to whether acquisition or condemnation is the appropriate course of action.
- A will does not pass title unless it has been probated through the Chancery Court. An open probate estate requires approval from the court prior to acquisition by MDOT. A closed estate will contain a Final Judgment acknowledging the record owner per the estate proceedings.
- If the deceased party has a will that has not been probated, the Acquisition Agent obtains a Record of Heirs form. [See Acquisition Forms Index]
- If a property owner has Power of Attorney (POA), the Acquisition Agent obtains documentation of the POA. It must be of record in a county courthouse to be valid, and must grant specific authority to convey property.

If a person is the sole survivor of a family with no will, or a gap in the trail of deeds and/or wills exists, the Acquisition Agent consults with the District Coordinator who will then consult with the Title Officer on how to proceed with the acquisition. The "sole survivor-at-law" deed clause is needed in all heir ship property. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations

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3.8 Deceased Owner, Survived by Partner

If a spouse is deceased, and “joint tenant with rights of survivorship” is noted on the abstract, the Acquisition Agent proceeds with following actions:

- Requests that the surviving spouse sign the deed;
Obtains proof of death (death certificate, obituary, funeral statement from courthouse or picture of deceased's headstone)

3.9 Obtain Releases to Encumbrances (or Interests) to the Title

The Acquisition Agent must obtain releases to encumbrances (or interests) to the title prior to payment of the property owner. These encumbrances may include mortgages, judgments, liens, etc. Note that it is not necessary to pursue partial release(s) once a parcel is recommended for condemnation.

The process of obtaining executed Partial Release of Mortgages must be initiated early in the acquisition process. Acquisition Agents must ask the property owner(s) if they have any liens and/or encumbrances against their property. The Acquisition Agent also must review files to determine the status of mortgages (still in effect or cancelled). Since the property owner's warrant must include the financial institution holding the Deed of Trust, it is imperative that the most current and correct financial institutions are included on the warrant. It also is imperative that the most current and correct Deeds of Trust are listed on the executed Partial Release of Mortgage instruments.

Alternatively, the lien holder can opt to waive payment. The lien holder must provide a written statement if they opt to waive payment [see Acquisition Forms Index - Lien Holder Waiver of Payment]. If the property owner indicates that the mortgage is paid in full, but the mortgage was not properly satisfied at the Chancery Clerk's office, the Acquisition Agent contacts the mortgage holder and requests that the mortgage be cancelled at the Courthouse. Acquisition Agents also must resolve inaccurate judgments or liens (for example, property owners with common names).

The steps to obtaining releases include the following:

1. Report the existence of a new mortgage via a memorandum to the District Coordinator and attach a copy of the discovered Deed of Trust and/or cancelled mortgage(s).
2. Obtain all phone numbers, names of contact persons, and addresses for financial institutions involved. This information is maintained and updated in each Acquisition Agent's electronic miscellaneous field file. This information is shared among all Acquisition Agents. Obtaining this information prevents delays once the deed is signed.
3. Contact mortgage bank in person, if possible, and provide written request for partial release [see Acquisition Forms Index - Partial Release Request Letter]. Some banks may have an Officer assigned to handle Partial Release of Mortgages, rather than the Loan Officer that manages the property or customer account. Obtain Partial Release of Mortgage from the assigned Partial Release Officer or the Loan Officer, as appropriate.
4. When Partial Release of Mortgage(s) is obtained, submit Partial Release of Mortgage(s) to the agency along with all signed deeds.
5. Check the abstract to verify that the agency has received all executed partial releases on the project.
6. If the mortgage company is unwilling to sign a Partial Release of Mortgage prior to receiving compensation, inform the District Coordinator. The District Coordinator, in consultation with the Title Officer, decides whether to process the parcel for payment through an Attorney Closing, or to recommend the parcel for condemnation.

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7. If it is decided to process the parcel for payment through an Attorney Closing, the Acquisition Agent must obtain a 3rd party authorization form from the property owner authorizing the closing attorney to speak with the lienholder. [See Acquisition Forms Index]
8. If it is decided to recommend the parcel for condemnation, the District Coordinator instructs the Acquisition Agent to complete a Recommendation for Condemnation Form.

If a mortgage holder requires the agency to pay a fee to obtain an executed Partial Release of Mortgage, the Acquisition Agent takes the following actions:

- a. If the property owner is required by the mortgage holder to complete and sign a form, request that the mortgage holder send the form to the property owner immediately.
- b. Ask the property owner to complete any forms required by the mortgage holder, return forms to the mortgage holder, and send a copy of each form to Acquisition Agent.
- c. Request that mortgage holder submit the request for the fee on company letterhead and include a signed W-9 Form to the Operations Administrator to begin processing the fee payment check.
- d. Operations Administrator obtains fee payment check and notifies the Acquisition Agent who disburses accordingly.
- e. Acquisition Agent coordinates and tracks the delivery or mailing of the fee payment check to the mortgage holder.

4. Fair Market Value Offer (FMVO)

Provision of FMVO

All offers of Approved Just Compensation shall be promptly presented to all parties who enjoy an interest in the proposed right of way. To prevent the time and expense with the costs of litigation and/or such additional time and expense associated with administrative fees, a minimum offer of \$500 shall be made to each interest when the appraised value is determined to be less than \$500. It may be appropriate to reduce the minimum offer under certain circumstances with the approval of the Right of Way Division Director.

Those who enjoy an interest in the proposed right of way or authorized representative(s), are provided a written ROW-205 FMVO form. In some cases, the Acquisition Agent may choose to present the written FMVO at their first meeting with the property owner while, in other cases, the Acquisition Agent may choose to present the written FMVO at a later meeting. For example, the Acquisition Agent may prefer to wait until issues on other parcels are resolved, until the title is cleared, a relationship with the property owner is established, or more information on the parcel is needed.

When purchasing property, all parties with an interest in the property must be contacted and provided a written FMVO, ROW Acquisition Map, *Citizen's ROW Acquisition Guide*, and an explanation of how the acquisition will affect the remaining property. Parties with an interest in the property may include heirs, estates, powers of attorney, and churches, among others. The property owner(s) can have a designated representative (if approved by all property owners) but each property owner and interested party must receive a written FMVO, ROW Acquisition Map, *Citizen's ROW Acquisition Guide*, and an explanation of how the acquisition will affect the remaining property, either in person or by mail. It is best to have all property owners present when presenting the written FMVO.

If at all possible, presentation of the written FMVO is made in person. Please refer to Section 1 of this Chapter of the ROM for guidelines related to meeting with property owners. FMVOs should be made within 3 days of receipt the Establishment of Just Compensation unless there are extenuating circumstances. The Acquisition Agent presents the property owner(s) the following documents at the FMVO meetings:⁹

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1. *Citizen's Right of Way Acquisition Guide* (may have been provided at earlier meetings)
2. ROW Acquisition Map, with the parcel to be acquired highlighted (may have been provided at earlier meetings)
3. Internal Revenue Service W-9 form
4. An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) that are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, identify any separately held ownership interest in the property, (a tenant-owned improvement) and indicate that such interest is not covered by the FMVO. (may have been provided at earlier meetings)
5. FMVO. Sign and date the written FMVO, in the property owner(s) presence. The date is that of the original FMVO presentation. If all of the property owners are not present at the initial FMVO meeting, when re-presenting the written FMVO later to the other property owners, present a copy of the written FMVO only, and write "COPY NO. 1" on the copy. The acquisition agent should have property owner(s) initial/date a copy of the FMVO for their records to be included in the pay package.
6. Proposed instrument(s) of conveyance (such as, deed(s)). Ask property owner(s) to sign and execute the instrument(s). Date the deed using the date that the first person signed the deed
7. Partial Release(s) of Mortgage(s).
If the written FMVO cannot be provided in person, the written FMVO is provided via mail. The Acquisition Agent informs the property owner(s) that the documents are being mailed, that they need to sign and notarize the documents, and return them by a specified date. The written FMVO mailing includes the documents listed above as well as a cover letter and a W- 9 for each property owner. If sent via certified mail, the Acquisition Agent retains the original receipt for certified mail and the certified mail receiving notice in the parcel file for submission with closing papers.

If the property is being acquired from an heir, the Acquisition Agent must state, along with the written FMVO that the recipient has identified themselves as an heir to the property owner.

Some property owners may request a copy of the appraisal. MDOT does not share the appraisal, however, a Market Data Comparison Report can be generated and shared in addition to CAD Maps, and environmental documents in conjunction with the written FMVO.

4.2 Joint Acquisition and Relocation Offer Policy

A displacee must receive a notice of eligibility that informs them that they will be displaced and may be eligible for relocation benefits. This notice should be issued on the same day, or as soon thereafter as possible, as the provision of the FMVO or other offer of just compensation. If delivery on the same day is not possible, the notice of relocation eligibility is typically delivered within seven (7) days.

Where feasible, MDOT provides the acquisition FMVO and relocation offer letter at the same time. If the property is only occupied by a tenant, the FMVO and relocation offer are provided separately. If the offers cannot be made at the same time, the Acquisition Agent notifies the Relocation Section promptly of the provision of the FMVO.

4.3 Waiver Valuation Acquisitions

MDOT may determine that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated not to exceed \$10,000.00 A Waiver Valuation acts as the offer of just compensation.

- **Identifying Parcels for Waiver Valuation.** Parcels may be selected for Waiver Valuation at the agency's discretion if the valuation of the parcel is uncomplicated and the value does not exceed \$10,000.00.

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- **Documenting Waiver Valuations.** Based on comparable sales for each identified parcel provided by the Review Appraiser, the Acquisition Agent or Agency Designee establishes a value for each parcel that qualifies as a Waiver Valuation. The Acquisition Agent or Agency Designee prepares a Waiver Valuation Form for each parcel that serves as documentation to present an offer of just compensation for the acquisition of these properties. The Waiver Valuation is submitted to the Right of Way Operations Administrator to review and, upon approval, execute an Establishment of Just Compensation (EJC). The completed EJC and Waiver Valuation are entered into the Parcel Tracking System and scanned to the PTS parcel file room, in lieu of an appraisal. (Agency Designee determined according to 49 CFR 24.102 (A) & (B).

4.4 Donations of Property

The owner of real property, required for a project, may donate the property to the agency. Prior to the agency accepting the property donation, the property owner is informed of their right to receive just compensation for the property. The property owner also is informed of their right to an appraisal of the property. If an appraisal is declined, a clause is inserted in the deed stating that the owner waived their right to an appraisal. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual.

If a property owner donates their real property, the Donation Clause is inserted in the deed. (A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual). It is necessary to obtain the partial release of mortgage and other required releases. A property owner also may donate their property without waiving their right to an appraisal.

4.5 No Oral Agreements

Acquisition Agents are prohibited from making oral agreements. All agreements with property owners and other interested parties must be made in writing.

4.6 Exceptions to What Acquisition Includes

Fee acquisitions include all rights, title, and interests in and to the property being acquired, except the following:

1. All oil and gas therein and there under on all projects where the property is being acquired under statutory authority, Section 65-1-47, Mississippi Code 1972 Annotated and Amended.
2. Other rights, titles, or interests which are specifically reserved in the deed, condemnation petition, judgment, or stipulation settling a condemnation proceeding.

5. Special Acquisition Circumstances

a. Protective Buying and Hardship Acquisitions

1. Protective Buying - 23 CFR 710.503

The STD must clearly demonstrate that development of the property is imminent and such development would limit future transportation choices. A significant increase in cost may be considered as an element justifying a protective purchase.

- Require a NEPA decision. (23 CFR 771.117(d) (12))
- Allow 4F properties if consultation is completed on 4F.
- Acquisition usually starts during the NEPA process.
- Request reimbursement after the property is incorporated in the Federal-aid project.
- Must comply with relevant Federal Laws. (Uniform Act, Title VI Civil Rights Act and 23 CFR 710)

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- Subject to condemnation if State Law allows.
- The acquisition shall not influence the environmental review of the project.

2. Hardship Acquisition - 23 CFR 710.503

The STD must accept and concur in a request for a hardship acquisition based on a property owner's written submission that:

- (1) Supports the hardship acquisition by providing justification, on the basis of health, safety or financial reasons, that remaining in the property poses an undue hardship compared to others; and
- (2) Documents an inability to sell the property because of the impending project, at fair market value, within a time period that is typical for properties not impacted by the impending project.

- Require a NEPA decision. (23 CFR 771.117(d) (12))
- Allow 4F properties if consultation is completed on 4F.
- Acquisition usually starts during the NEPA process.
- Request reimbursement after the property is incorporated in the Federal-aid project.
- Must comply with Federal Law. (Uniform Act, Title VI Civil Rights Act and 23 CFR 710)
- Subject to condemnation if State Law allows.
- The acquisition must not influence the environmental review of the transportation project.

b. Mobile Home Acquisition Procedure

The Acquisition Agent obtains a determination from the approved appraisal regarding whether the mobile home is real property or personal property, if not so identified the Review Appraiser is notified to assist in the determination. In most instances, if the mobile home is personal property, the mobile home is relocated to a new lot by the Relocation Agent. If the mobile home is real property, the Acquisition Agent acquires it and compensates the property owner in the FMVO. In those instances, when a mobile home cannot be relocated to similar conditions, zoning, etc., the Relocation Agent requests of the Review Appraiser, in writing, that the mobile home be acquired.

If the Acquisition Agent acquires the mobile home, the Acquisition Agent conducts the following activities:

- Adds the Mobile Home Clause to the deed with the mobile home's serial number, make, and model. The Acquisition Agent and the property owner(s) initial the clause. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual.
- Obtains the original bill of sale from the mobile homeowner and attaches the bill of sale to the signed deed.
- Prepares a bill of sale for the property owner(s) to sign and date. This bill of sale must be notarized.
- Coordinates with the Title Officer to check for any Uniform Commercial Code (UCC) liens that prevent passing of clear title to the agency.
- Obtains the original title to the mobile home. If the title cannot be obtained, the Acquisition Agent must document the file accordingly and MDOT cannot sell the mobile home.

When acquiring a mobile home that is owned by one (1) party, but is on a different property owner's land and the mobile home is mortgaged, the Acquisition Agent ensures that the following items are placed in the Parcel File:

1. Property owner's Warranty Deed
2. Mobile home owner's Quitclaim Deed with Mobile Home Clause inserted.

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3. Partial Release of Mortgage.
4. Uniform Commercial Code 3 (UCC-3) release from mortgage company.
5. Notarized Bill of Sale from mobile home owner.
6. Mobile home title from the mortgage company. The mortgage company typically sends the title to the mobile homeowner. MDOT then obtains the signed title from the mobile homeowner. In most cases, only newer mobile homes have a title or certificate of origin." Please note that if it is not possible to obtain the title, then the Acquisition Agent should document in the file that the title could not be obtained so therefore MDOT cannot sell the mobile home.
7. US Department of Housing and Urban Development (HUD) Form signed by the property owner.

Shared Acquisition Payment If more than one party is sharing the acquisition payment, the percentage of the payment that goes to each individual is stated in the deed as a Disbursement Clause. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual.

c. Crop Agreements

This section describes the potential situations that may occur when an acquisition project includes land with existing, growing crops. In all cases, the Acquisition Agent provides all crop agreements to the Property Management Section as notification of the agreement.

Harvest Prior to Letting. If agreed to by the agency, the property owner can harvest existing, growing crops after the agency acquires the property, but before project construction. Approval for the harvest completion date is obtained from the District Coordinator to ensure harvesting does not interfere with project letting. The Acquisition Agent provides the property owner with the deadline for harvesting as a Crop Clause in the deed or by a signed memorandum from agency authorities (A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual). After the agreed upon harvest completion date, any crops not harvested become the property of the agency. Agency employees must not suggest that a property owner abandon a growing crop prior to ROW deed conveyance. Until this date, the property owner should never abandon a growing crop.

Unable to Harvest Prior to Letting. If the project is let prior to harvesting the current crop and the property owner is unable to harvest the crop by the agreed upon deadline, an estimate of the damages is prepared either by a Review Appraiser's determination, a revised appraisal, or an administrative adjustment as determined by the Operations Administrator.

Utility Relocation Requires Access/Potential Crop Damage. Relocation of utilities in the pre-construction phase may require access that could damage a growing crop. The utility company, however, must access the property to relocate the utility in time for project letting. In these instances, the utility company determines the damages in coordination with the owner of the crops and establishes damages prior to initiating the relocation. The damages are provided to the crop grower by the utility company.

Potentially Contaminated or Other Environmentally-Sensitive Sites. Farming operations may contain potentially contaminated sites or other environmentally-sensitive areas. If a Field Agent, Consultant or Appraiser discovers such a site not already identified by the "MDOT" Environmental Division, the party who discovers it reports it to the District Coordinator who advises the Operations Administrator and the "MDOT" Environmental Division. Once reported, the acquisition process is discontinued until a determination is made and Parcel Tracking is updated to reflect the hold on the contaminated property.

Farmer Plants Crop After Signing the Deed. If the farmer plants a crop on the right of way after signing the deed, this is done so at the farmer's own peril.

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d. Timber Agreements

If the timber is a separate item on the appraisal (that is, it is part of timberland, not timber on residential land), the property owner may elect to harvest the timber. If the property owner elects to harvest the timber, the Acquisition Agent subtracts the value of the timber from the total FMVO. The deed must contain a Timber Clause with a clear deadline for timber removal (A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual). The Acquisition Agent obtains approval for the harvest completion date from the District Coordinator to ensure harvesting does not interfere with project letting.

e. Life Estate Interests

In some instances, a life estate owner's deed states that they have interests in timber on the property, any rent resulting from the property, or other income producing features of the property. The life estate interest also usually has the right to live on the homestead until their death. In these cases, the fee owner may be compensated through a Warranty Deed for the value of the land and the life estate owner may be compensated through a Quitclaim Deed for the value of timber, rent, etc. However, there are some instances where the life estate owner executes the same Warranty Deed as the remainder men, and no quitclaim deed is obtained.

f. Fence Relocation

If there are fences to be compensated for within the acquisition area on the parcel being acquired, and the property owner wishes to keep the fence, the agency and the property owner may agree in writing that the property owner may remove the fence from the acquired property. The Acquisition Agent obtains approval for the fence removal date and clause from the District Coordinator to ensure the fence does not interfere with project letting. The deadline for the removal of the fence must be stated in a Fence Clause in the Deed. If the fence is not removed within that timeframe, the construction contractor demolishes the fence. A list of approved deed clauses is included in the attachments to this Chapter of the Right of Way Operations Manual. If the fence is appraised as an improvement, the Acquisition Agent notifies Property Management to ensure they are aware of the acquisition of the fence and removal is included in the construction contract.

g. Billboard and Sign Acquisitions

The location of a billboard/sign is obtained from the topo information on the ROW Acquisition Map, construction plans, the OAS website or by line of site by appraisers or Field agents. The appraiser determines if the billboard/sign is on present right of way or private land. When a billboard or sign is acquired by the agency, a sign or billboard may be relocated depending on the condition of the sign, remaining land, length of lease, and zoning. The relocation of a sign or billboard should be coordinated with the MDOT Maintenance Division Outdoor Advertising Section to determine if the relocation of a billboard is permissible.

h. Acquisition of Land for Other Purposes (This section is MDOT specific, it may or may not apply to other agencies)

Upon receipt of a request from a District Office or MDOT Division and authorization from the MDOT Executive Director to acquire land not for a transportation construction project, the RWD Survey, Maps & Deeds Section prepares maps and deeds and the Appraisal Section prepares an appraisal of the property. Acquisition Agents then tender an offer for the property.

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On occasion, MDOT acquires property for the purpose of wetland banking. The “MDOT” Environmental Division informs the Assistant Chief Engineer for Preconstruction that property is needed for wetland banking. Upon approval by the Assistant Chief Engineer for Preconstruction and the Mississippi Transportation Commission, the Acquisition Section acquires the designated property through a Warranty Deed. Upon completion of the acquisition, a copy of the signed deed is provided to the “MDOT” Environmental Division for wetland banking purposes.

i. Acquisition from Political or Public Corporation

If the property owner is a political or public corporation (municipality, county, etc.), the Acquisition Agent ensures that the seal of the corporation is attached to the instrument and is attested to by the secretary or clerk of such corporation.¹⁰ The seal and the attest must be part of the actual instrument. It is not sufficient for the seal and the attest to be only on the Resolution and Order or minutes.

j. Acquisition of Lands Under Control of Another State Agency

An agency occasionally acquires land from other state agencies. The method for acquiring this land is determined by the type of ownership that the state agency has of the property. If there are no restrictions on the agency passing the title, the agency will acquire the property through a Warranty Deed. If this is not possible, the property is acquired through a permanent easement. Some state agencies must have legislative approval prior to conveying property. This approval is coordinated through the Attorney General’s Office.

k. Grave Relocation

If a grave must be relocated in the acquisition process, a court order is required. The agency provides counsel to handle the legal process of the grave relocation. A ROW Agent (typically a Relocation or Acquisition Agent) provides counsel with the names of any relatives of the buried deceased, name of the deceased, contact information for the funeral home conducting the relocation, and the new location of the grave. If relatives exist, the relatives may decide where to relocate the grave. If no relatives exist, the courts determine where to relocate the grave. The ROW Agent also obtains quotes for the relocation costs from two (2) to three (3) funeral homes for the relocation services and provides this information to the attorney. Once the Court Order is obtained, the funeral director conducts the relocation and invoices the ROW Division for the cost of the relocation services.

l. Functional Replacement of Real Property in Public Ownership (23 CFR 710.509)

1. General

When publicly owned real property, including land and/or facilities, is to be acquired for a highway project, in lieu of paying the fair market value for the real property, the MDOT may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility. Examples are libraries, fire and police stations, city and town halls, and public schools.

2. Federal Participation Federal-aid funds may participate in functional replacement costs only if:

- a.** Functional replacement is permitted under State law (it currently is) and the MDOT elects to provide it.
- b.** The property to be acquired is in public ownership and use.
- c.** The replacement facility will be in public ownership and will continue the public use function of the acquired facility.
- d.** The MDOT has informed the agency owning the property of its right to an estimate of just compensation based on an appraisal of fair market value and of the option to choose either just compensation or functional replacement.
- e.** The FHWA concurs in the MDOT’s determination that functional replacement is in the public interest.
- f.** The real property is not owned by a utility or railroad.

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3. Limits Upon Participation

Federal-aid participation in the costs of functional replacement is limited to costs that are actually incurred in the replacement of the acquired land and/or facility and are:

- a. Costs for facilities which do not represent increases in capacity or betterments, except for those necessary to replace utilities, to meet legal, regulatory, or similar requirements, or to meet reasonable prevailing standards; and
- b. Costs for land to provide a site for the replacement facility.

4. Procedures

- a. During the early stages of project development, a MDOT ROW representative should meet with the owning agency to discuss the effect of the possible acquisition and potential application of the functional replacement option.
- b. At the earliest practicable time following FHWA authorization for right-of-way acquisition for the project, the owning agency must be informed of its right to an estimate of just compensation based on an appraisal of fair market value and of the option to choose either just compensation or functional replacement.
- c. If the owning agency desires functional replacement, it must make a formal written application to the MDOT ROW Division Administrator and fully explain why it would be in the public interest to functionally replace its facility.
- d. If the MDOT determines that functional replacement is in the public interest, it shall request concurrence from FHWA. This is required on all Federal-aid projects regardless of the current MDOT-FHWA Project Oversight Agreement.
- e. Following receipt of FHWA concurrence, the MDOT should initiate an agreement with the owning agency setting forth the rights, obligations, and duties of each party with regard to the facility being acquired, the acquisition of the replacement site, and the construction of the replacement facility. The executed agreement shall also set forth how the costs of the new facility are to be shared between the parties.
- f. The MDOT may proceed with acquisition of the replacement site, if necessary. Should the owning agency elect to purchase the replacement site on their own, the MDOT ROW Division must monitor the acquisition for Uniform Act compliance.
- g. The development of detailed plans, specifications, and estimates (PS&E) should proceed as soon as practicable. An architect should be selected using the MDOT's consultant selection procedures. (Architect fees must not be based on a percentage of cost of construction in accordance with 23 CFR Part 172.9(b)(2)).
- h. The PS&E shall be submitted to FHWA for review and approval if required under the current MDOT-FHWA Project Oversight Agreement. Advertising for bids and letting of the contract may follow the general procedures utilized by the owning agency, if acceptable to the MDOT and FHWA. The submission, where applicable, shall include provisions for periodic MDOT inspections during construction of the replacement facility.
- i. A final inspection of the completed facility shall be made jointly by the MDOT and a representative of the owning agency. A representative of FHWA should be invited on this inspection if appropriate under the current MDOT-FHWA Project Oversight Agreement. The MDOT shall request a letter from the owning agency releasing MDOT from any further responsibility.

6. Easements

An easement is the right to the limited use by the agency in the land of a property owner. An easement is a non-possessory and intangible interest. The agency may require either temporary or permanent easements.

a. Pre-1949 (*Whitworth*) Acquisitions (MDOT Specific)

All acquisitions that occurred prior to September 14, 1949 were acquired via permanent easement.¹¹ It is not necessary for MDOT to acquire properties where MDOT owns such an easement.

b. Temporary Easements

The agency's policy is to acquire Temporary Easements for ramps, culverts, and ponds on property surrounding the project site. All other construction-related activities such as detour roads, sloping and grading, etc. must be acquired under a Warranty Deed.

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c. Permanent Easements

In some cases, the agency acquires the property through a Permanent Easement. When obtaining a Permanent Easement on property, the procedures followed by the Acquisition Agent are similar to those followed when acquiring property through a deed. The procedures specific to Permanent Easements are described below.

A. Federal Agency Permanent Easements

Agencies cannot exercise eminent domain over any Federal/United States Government Agency or Reservations for Native Americans (which are under the umbrella of the United States Department of Interior, Bureau of Indian Affairs). Government Agencies from which agencies frequently acquires property via Permanent Easement includes the following but not limited to:

- United States Department of Interior, Bureau of Indian Affairs (Reservations for Native Americans)
- Federal Highway Administration
- Army Corps of Engineers (thru FHWA)
- United States Department of Agriculture, Forest Service (thru FHWA)
- Drainage District Boards (thru FHWA)
- Levee Boards (thru FHWA)
- 16 Section Lands – County Board of Education (thru FHWA)
- Army or Air Force
- Navy
- Veterans Administration
- NASA

When obtaining an easement on property owned by a Federal Agency, the Acquisition Agent provides the Agency with a cover letter that states the location and number of acres and requests their signature on the Permanent Easement. Attached to the letter are a ROW Acquisition Map, the FMVO, and the Permanent Easement. The Acquisition Agent contacts the Agency to ensure that they sign and return the Permanent Easement. After the Acquisition Agent receives the executed Permanent Easement, the Acquisition Agent arranges for the easement to be approved. Upon approval, the Acquisition Agent processes payment. [See Federal Land Transfer section of the ROM for additional information].

Title personnel determine if a property is owned by a Native American Tribe. When obtaining an easement on property owned by a Native American Tribe, the Acquisition Agent provides the Tribe with a cover letter that states the location and number of acres involved and requests their signature on the Permanent Easement. Attached to the letter are a ROW Acquisition Map, the FMVO, and the Permanent Easement. The Acquisition Agent contacts the Tribe to ensure that they sign and return the Permanent Easement. After the Acquisition Agent receives the executed Permanent Easement, the Acquisition Agent arranges for the easement to be approved. Upon approval, the Acquisition Agent processes payment.

It is important to note that Native Americans who live on the Reservation do not own the land on which their house sits. The Reservation's Housing Authority owns all of the land and the residents pay "rent" to Housing Authority for the land on which their house sits. Residents of the Reservation, however, may own their house. As a result, when obtaining easements on Reservation property, the agency provides just compensation to the Reservation and, in turn, the Reservation provides residents, who own their homes, compensation for the house. When acquiring property on a Reservation, the Reservation also may donate the land to the agency. In these instances, the agency may agree to allow the Reservation to remove any timber on the land prior to the donation.

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B. Railroad Company Permanent Easements

The acquisition of easement of property owned by a railroad company is handled by the Operations Administrator in conjunction with the “MDOT” Bridge Division and “MDOT” Roadway Design. The Operations Administrator provides the railroad company with a cover letter stating the location and number of acres involved in requesting their signature on the Permanent Easement. Attached to the letter are three (3) ROW Acquisition Maps, three (3) construction sheets, three (3) cross sections showing the subject property and the railroad, the FMVO, and three (3) Permanent Easements.

The Operations Administrator contacts the Railroad to ensure that they sign and return the Permanent Easement. In most instances, the Permanent Easement is not obtained until the construction agreement is executed. The construction agreement involves the railroad, “MDOT” Bridge Division, and “MDOT” Roadway Design. After the Operations Administrator receives the executed Permanent Easement from the Railroad, they submit a pay package for processing through regular channels.

7. Acquisition Issue Resolution Procedures

a. Addressing Property Owner Concerns

ROW Agents respond to property owner questions promptly. If the Agent cannot answer the property owner’s question, the Agent raises the question with appropriate agency personnel. The Agent documents all questions in the Contact Report. The agent assures the property owner that their question will be answered promptly and specifies an approximate timeframe for a response. Agents ensure that property owner questions are fully addressed. Outstanding property owner concerns or questions may prevent or delay property acquisition. The property owner must be given the opportunity to present evidence, including but not limited to, comparable sales data and appraisals that are contrary to the amount of reimbursement of expenses related to transfer of title or litigation, the amount of the FMVO, or other considerations.

b. Irrigation System Concerns

Irrigation systems on cropland properties may be affected by construction projects. The farmer and/or property owner determines the effects of construction on the irrigated land, well, and/or pivot system. The Acquisition Agent, at the property owner’s request can request a survey through the District Coordinator and a center pivot radius to determine the construction project’s effect on the irrigated land, well, or pivot system. The survey and center pivot radius determine whether the project will negatively affect the crop and, if so, the amount of acreage and irrigation area that will be affected. Upon making the survey request, the Review Appraiser is notified as any irrigated crop land vs. non crop land could require an appraisal update.

If the well-head for the irrigation system is within the acquisition area, then the system is appraised and acquired via cost to cure. Upon acquisition of a well-head, the Acquisition Section notifies Property Management. Property Management is responsible for closing the well, as necessary. If the well-head is not within the acquisition area, then the irrigation system may be relocated and the Appraiser notifies the Relocation Agent.

c. Exchange for “Consideration” Concerns

In some cases, a property owner may refuse to sign the deed(s) because it states they have received ‘consideration’ (i.e., payment), when in fact payment is made only after all deeds to the parcel have been recorded. In these cases, the Acquisition Agent must obtain approval from the District Coordinator to request that the property owner submit a copy of the signed deed and enable the property owner or their legal representative to retain the original deed until the payment is received.

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d. Construction and Survey Issues and Concerns

If construction and survey issues or concerns are raised by the property owner, the ROW Agent may go to the District Coordinator to request that a District staff person meet with the Acquisition Agent and the property owner at the property to explain construction or survey issues and answer questions.

e. Ramp Change Requests

If a property owner requests a ramp change, the Acquisition Agent contacts the District Coordinator about the requested ramp change. The District Coordinator discusses the ramp change with the Project Engineer. Roadway Design and the Project Engineer together make a decision regarding the ramp change. The District Coordinator provides this decision to the Acquisition Agent and copies the Project Engineer. For the change to be finalized, Roadway Design Division provides the ROW Division with an official design change. The decision notes the location of the ramp identified by file number and station number. Based on the final Roadway Design Division plan revision, the Acquisition Agent provides the landowner a copy of the revised ROW Acquisition map which reflects the change.

f. Property Owner Acquisition Review Request

The property owner, or other interested party, may request a review of the amount of reimbursement of expenses related to transfer of title or litigation, the amount of the FMVO, or other considerations. Each review process is described below.

A. Title Transfer and/or Litigation Expenses

The owner of the real property may be reimbursed for all reasonable expenses the property owner necessarily incurred for:¹²

These fees are approved by the District Coordinator prior to committal. Whenever feasible, the agency pays these costs directly so that the owner does not have to pay such costs and then seek reimbursement from the agency.

1. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the agency. However, the agency is not required to pay costs solely required to perfect the owner's title to the real property; and
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and
3. The pro rata portion of any prepaid real property taxes which are allocable to the period after the agency obtains title to the property or effective possession of it, whichever is earlier.

The owner of the real property also is reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner incurred because of a condemnation proceeding, if:¹³

1. Final judgment of the court is that the agency cannot acquire the real property by condemnation; or
2. Condemnation proceeding is abandoned by the agency other than under an agreed-upon settlement; or
3. Court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the agency effects a settlement of such proceeding.

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B. Fair Market Value

When property owners dispute the FMVO monetary amount, the Acquisition Agent asks the property owner why they think the property is worth more. If appropriate, the Acquisition Agent submits this information to the District Coordinator who forwards it to the Review Appraiser for consideration. The Review Appraiser provides the District Coordinator with a determination of whether the appeal is valid. If the appeal is valid, the appraisal may be revised and a copy of the revised appraisal is sent to Acquisition Agent. The property owner must be given the opportunity to present evidence that is contrary to the amount of reimbursement of expenses related to transfer of title or litigation, the amount of the FMVO, or other considerations.

If a property owner provides a privately obtained appraisal to the Acquisition Agent for consideration, the Acquisition Agent takes the following actions:

1. Sends privately obtained appraisal via memorandum to the District Coordinator
- District Coordinator forwards the appraisal to the Review Appraiser for review and comment.
3. Does not make copies of the privately obtained appraisal, this is a proprietary document.
4. When the appraisal is returned from the Review Appraiser, the Acquisition Agent returns the private appraisal to the property owner in person and in original condition
5. Provides the property owner with a verbal explanation of MDOT's findings and status of the decision.

After the FMVO is presented to the property owner, Agency's Appraisers (assigned to the project or otherwise) do not discuss the appraisal or the appraisal process with the property owner. Acquisition Agents contact only Review Appraisers or the District Coordinator to convey property owner requests or concerns concerning appraisals. It is preferred that the Acquisition Agent discuss appraisal issues with the Review Appraiser rather than the Appraiser.

C. Administrative Adjustment Request¹⁴

Administrative adjustments are used as an alternative to judicial resolution of a difference of opinion on the value of a property or the terms and conditions of the acquisition process or highway design to avoid unnecessary litigation and congestion in the courts.¹⁵ Administrative adjustments that exceed \$10,000 require approval by the Division Director.

In some instances, the property owner may submit appraisal or sales data for consideration. The Acquisition Agent forwards this to the District Coordinator who forwards to the Review Appraiser, who may or may not make any adjustments to the FMVO.

An Acquisition Agent may not make an offer in excess of the FMVO based on an administrative adjustment unless specifically authorized by the District Coordinator. The following is the process by which an administrative adjustment may be made:

1. Following the failure of reasonable efforts to come to an agreement with the property owner, the Acquisition Agent prepares for the District Coordinator an Administrative Adjustment Form presenting the property owner's compensation or acquisition issue. [See Acquisition Forms Index]
2. The landowner must present written substantiation for the amount compensation they are seeking in order to justify any adjustment.
3. District Coordinator, after consulting with the Operations Administrator, may authorize approval of an administrative adjustment if the settlement is reasonable, prudent, and in the best interest of all.

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4. Upon approval or denial, the Acquisition Agent is notified.
5. The approval or denial of the administrative adjustment is documented in the contact record. The Acquisition Agent then contacts property owner and obtains execution of the instruments.
6. The administrative adjustment is documented on the Invoice.
7. Administrative adjustment amounts are not added to an FMVO. The FMVO matches the appraisal amount and the invoice matches the deed amount.
8. A replacement housing payment to an owner-occupant must be recomputed when the tract is acquired through condemnation or administrative settlement. The amount of the final court award or the amount of final settlement is to be used in computing the replacement housing payment in lieu of the original approved offer for the acquisition of the property.

D. ROW Consideration Request

In some cases, the agency agrees to a right of way consideration, such as a driveway or frontage road access to finalize the acquisition. An agreement for such a consideration between the property owner and the agency must be documented in writing.

In the case of most driveways or ramps, if the Acquisition Agent is informed by the property owner that such a consideration would enable finalization of the acquisition; the Acquisition Agent takes the property owner's request directly to the District Coordinator and the Project Engineer. The District Coordinator then obtains the approval of the Project Engineer and the District Engineer, documents the agreement, and conveys the terms of the agreement to the property owner in coordination with the Acquisition Agent.

8. Acquisition Acceptance and Closing

For additional property closing procedures and detail, please refer to the Property Closing Chapter of the Right of Way Operations Manual.

8.1 Acceptance of FMVO or Waiver Valuation

When the property owner accepts the FMVO or Waiver Valuation, the Acquisition Agent conducts the following activities with the property owner:

- Ask if name on the deed(s) is exactly correct.
- Ask for correct address to enter on the deed(s) and Internal Revenue Service W-9 Form(s).
- Request to see each property owner's social security number identification.
- If future address is not yet known, or available, remind the property owner to establish forwarding address at the US Postal Service when the future address is known.
- Execute and properly notarize the deed(s)
 - Where it is advantageous to the property owner, suggest that a witness be present for deed execution.
 - If property ownership includes any life estate interests, the deed(s) requires signatures of all parties who have an interest to convey the property.
 - If the property owners have homestead rights, both partners must sign the deed(s). A Power of Attorney signature is not acceptable on homestead property.
- If there are multiple property owners, and the property owners request separate checks, separate checks can be issued by the closing attorney. An Internal Revenue Service W-9 form is created for each property owner. The request for multiple checks should be well documented in the contact report. One invoice can be submitted for the total of the FMVO and submitted to the closing attorney.
- If there are multiple property owners listed on one check, the Acquisition Agent must obtain an IRS W-9 Form from one of the named property owners. That person will receive

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the IRS W-9 Form unless the property owners request to have multiple checks issued. If possible, the Internal Revenue Service W-9 Form should have the same address as the address on the deed. If this is not possible, the Internal Revenue Service W-9 Form must indicate the address where the payment is to be made. The address on the invoice must match the address on the Internal Revenue Service W-9 Form. Ask the property owner to sign and date the Internal Revenue Service W-9 Form.

8.2 Signature Requirements for Instruments

The following requirements must be adhered to when obtaining signatures on instruments:

- If the individual has signed the instrument using a name that is not exactly the same as the name typed on the instrument, add an “also known as (AKA)” signature. The notary references the “also known as (AKA)” signature also.
- When using a corporate or representative notary acknowledgement, where more than one person signs the instrument (such as for a company, institution, etc.), the Acquisition Agent adds more pages to the instrument to enable the notary to notarize each person's signature.
- When the Acquisition Agent acts as a subscribing witness, the Acquisition Agent requests that all property owners observe the Acquisition Agent sign as the witness to their signature. The Acquisition Agent signs as a witness in their presence, immediately after the property owner signs. If the Acquisition Agent is acting as a subscribing witness, stamp “Witness” beside the Acquisition Agent's signature on the deed.
- Persons signing as a representative of a company, institution, etc. add their title below their signature.
- For a property owner who cannot write, the Acquisition Agent:
 - Requests that two (2) unaffected witnesses attend the meeting.
 - Instructs the property owner to touch (tot) the pen and make their mark. The property owner may make an “X” or other mark.
 - For a signer by mark, the notary and two (2) witnesses unaffected by the document observe the affixation of the mark, both witnesses sign their own names beside the mark, and the notary writes below the mark: “mark affixed by (name of signer by mark) in presence of (names and addresses of two (2) witnesses) and undersigned notary; or
 - For a person physically unable to sign or make a mark, the person directs the notary to sign on his or her behalf in the presence of the person and two (2) witnesses unaffected by the document, both witnesses sign their own names beside the signature, and the notary writes below the signature: “Signature affixed by notary in presence of (names and addresses of person and two (2) witnesses).

8.3 Acquisition Agent Closing Procedures

Upon the property owner's acceptance of the FMVO, the Acquisition Agent completes the acquisition closing procedures listed below:

1. Finalize the Contact Report
2. Complete the Acquisition Closing Statement
3. Invoice to the Closing Attorney handling the file
4. Draft an invoice to the closing attorney assigned to the file
5. Update Parcel Tracking to reflect the Pay Package Submitted date.
6. Forward the closing file and all related documents to the ROW Administration's Assistant who performs a cursory review of the file. In order to comply with the FMS accounting system an invoice from the Closing Attorney is required. The ROW Administration's Assistant forwards the acquisition invoices for the interests acquired to the Closing Attorney who prepares and returns an invoice to the ROW Administration's Assistant for the Acquisition funds. The pay package (closing

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document(s)) is taken to the Acquisition Section Administrative Assistant who scans the pay package to the PTS parcel file room. The Closing Agent invoice is used to process the acquisition invoices for payment by FMS. The file is then taken to the Title Section. See Title Section ROM for closing procedures. The closing file includes lien holder names, property owner name(s), Resolution and Order or minutes of corporation or non-profits, all signed instruments, notaries, signatures, and a draft Invoice. The Acquisition Agent attaches the Property Closing Checklist to the closing file. The Property Closing Checklist includes the following items.

- Name and address on the deed match the name and address on the invoice. Check home and business telephone numbers.
- Check the Tax Identification Number on the Internal Revenue Service W-9 form against the invoice.
- Dollar amount on the deed equals the dollar amount on the invoice.
- Deed acreage equals invoice acreage.
- Check the notary and seal for spelling of names, dates, etc.
- Compare names on the deed to ownership on abstract. Include proper documentation, if there are differences; such as heir ship forms, wills, trusts, life estates, etc.
- Check abstract for mortgages. List mortgages on the invoice if they apply or supply documentation if they are cancelled, released, satisfied, etc.
- List all liens, judgments, or lis-pendens on the invoice or send proof of payment.
- Check for unpaid taxes: (county, city, school, etc.). Unpaid taxes need to be listed on the invoice.
- Check potentially contaminated sites list. If the property is listed, contact Property Management before acquiring and get the status of the parcel.
- Check deed clauses; proof and ensure that they are initialed.
- Note any administrative adjustment amount and date approved.

7. The Relocation Section will receive notification from the Parcel Tracking System the property has been acquired or condemned.

9. Condemnation

1. Agents or consultants are not to mention condemnation or the possibility of condemnation to the landowner prior to discussing with the District Coordinator.
2. Informing the landowner of the possibility of condemnation will be directed by the District Coordinator or the Right of Way Administration.

Additional Information on Condemnation proceedings can be found in the Legal Chapter of this Right of Way Operations Manual.

9.1 Identification of Parcels for Condemnation

Acquisition Agents may identify parcels that the agency normally acquires through eminent domain. Some common reasons for eminent domain filing are listed here:

1. Property owner is a state legislator. Prevents any appearance of a conflict of interest. The property owner is provided an FMVO and notified that the acquisition is going directly to condemnation.
2. Title issues
3. Property owner declines to sign the deed
4. Property owner opposition to language in the deed or easement

Acquisition Agents send the property owner a final notice before recommending the parcel for condemnation. [See Acquisition Forms Index]

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9.2 Recommendation for Condemnation

If a potential condemnation is identified, the Acquisition Agent creates a Recommendation for Condemnation File. The Recommendation for Condemnation File includes the following items and is provided to the ROW Division Administrator for review.

- Signed Recommendation for Condemnation Form;
- Copy of Agent's FMVO;
- Contact Report completed and signed;
- W-9 Form (Acquisition Agent should make a good faith effort to get the W-9 signed and completed by the property owner. If the property owner refuses to sign W-9 Form, the Acquisition Agent will leave the form with the property owner and note this on the Contact Report and Invoice;
- Physical addresses (not a post office box) of out-of-state owners of property being condemned, including lessors, renters, and easement holders; and
- Physical addresses (not a post office box) of in-state owners of property being condemned, including lessors, renters, and easement holders.

Upon receipt of a Recommendation for Condemnation File, the ROW Division Administrator reviews all documentation associated with the parcel. The ROW Division Administrator may request another acquisition attempt, request additional information, or approve the Recommendation for Condemnation. If the Recommendation for Condemnation is approved, the Acquisition Section's Administrative Assistant scans the Recommendation for Condemnation into the PTS parcel file room and enters the Recommended Date for Condemnation date into PTS and forwards the file to the Legal Section.

When the Recommendation for Condemnation package is submitted to the ROW Division Administrator, the Acquisition Agent conducts the following activities:

- When parcels involving relocation are condemned, the acquisition agent informs the Relocation Section of the date the Recommendation for Condemnation package and Form was submitted.
- Discontinues seeking Partial Release of Mortgage(s) and deeds.
- Prior to submitting a recommendation for condemnation, the ROW Agent notifies the property owner of the submittal of the recommendation for condemnation on the parcel and that the agency may proceed immediately to seek to acquire the property through eminent domain proceedings.
- Discontinues contact with the property owner(s) and their designated attorneys or representatives once the file is sent to the attorney. If contacted by the property owner(s), or their designated representatives, the Acquisition Agent should contact the District Coordinator to determine the status of the Eminent Domain proceedings. If the file has not been sent to the attorney, the Acquisition Agent may discuss any issues of the landowners including possible acquisition of the parcel.

10. Ongoing Acquisition Procedures

10.1 Acquisition Status Report

The Acquisition personnel prepares a weekly Acquisition Status Report from a status

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report template provided by the Operations Administrator for each project, listing all parcels and their status. In the Acquisition Status Report, the following information is provided:

1. Number of Files on the project (Note: one File may include several instruments, i.e., W-Deed, Q-Deed, Permanent Easement, Temporary Easement, G-Deed, X-Deed, and Partial Release of Mortgage).
2. Number of Files “in negotiation” (Acquisition Agents have received funding, abstracts, all known instruments, reviewed appraisals, and environmental clearances).
3. Number of Files “acquired” (Acquisition Agents have received and submitted all executed instruments to the Right of Way Division for processing).
4. Number of Files “condemned” (Acquisition Agent has submitted a Recommendation for Condemnation package to the Right of Way Division for processing).
5. Number of appraisals needed (difference between total Files and Files “in negotiation,” “acquired,” and “condemned”).

The Acquisition Status Report only states that the Acquisition Agent has mailed or delivered these documents to the Right of Way Division. The Acquisition Status Report does not report or guarantee that the Right of Way Division has received, accepted, rejected, and/or processed the documents. The Acquisition Status Report is not a conclusive report that all instruments required by the agency to acquire complete Title to the subject land have actually been received, accepted, processed, recorded, paid, and archived by the agency.

10.2 Contact Report

Each Acquisition Agent maintains a Contact Report for each parcel they are acquiring. The Contact Report typically is used only by the Acquisition Agent but can be used by any agency employee or representative that has contact with a property owner. The Contact Report documents interactions and conversations with the property owner but is not a verbatim record of events. After each contact with the property owner, the Acquisition Agent records the following information in the Contact Report.

- Confirmation of the names and addresses of all property owners and lien holders (initial contact),
- Date and place of contact,
- Persons present,
- FMVO(s) provided,
- Any counter offers, issues, concerns, problems,
- Reasons property owner would not sign deed (if property owner will not sign the deed),
- Recommendation for resolving issues or condemnation, and all other pertinent data.

All correspondence between the Acquisition Agent, the property owner(s), and lien/mortgage holders is attached to the Contact Report. The Contact Report is signed and dated by the Acquisition Agent.

10.3 Guidelines for Terminology

In all contact with property owners or their designated representatives, agency personnel avoid use of the terms “offer,” “negotiate,” or “take” in both conversation and in writing.

10.4 Property Owner Seeks Higher Authority than Agent

If the property owner or designated representative demands to speak with a higher authority, the Acquisition Agent refers the property owner to the District Coordinator.

10.5 Environmental Concerns

Agency personnel, including all ROW Agents, immediately report any potentially contaminated sites or other environmentally sensitive areas to the District Coordinator who will then in turn inform the Environmental Coordinator.

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10.6 Staking Requests

The District Coordinator is responsible for requesting that the Project Engineer stake the project to clarify ROW boundaries. If the property owner requests staking the Acquisition Agent submits the request to the District Coordinator. If the District Coordinator is not available that day, submit the request to the Operations Administrator with a copy of the request to the District Coordinator. ROW Agents do not rely on concrete markers for determining ROW boundaries. ROW Agents refer all ROW staking, construction limit, and access questions to the District Coordinator who works with the Project Engineer to respond to such questions.

10.7 Title Update

The condition of the title may change between the time the initial abstract was completed and the time of the acquisition. The Acquisition Agent, upon becoming aware of any change in title, immediately notifies the District Coordinator, who requests that the Title Officer confirm such changes and obtain an updated title. An updated title must be obtained prior to submitting an invoice to pay for the property specified in the executed instrument.

11.0 Early Acquisition Options and Requirements (23 CFR 710.501)

Under certain circumstances, MDOT may create an Early Acquisition Project to acquire real property interests for a Transportation Project before the completion of project approval and environmental document. The funding options for an early acquisition project are:

1. State-funded early Acquisition without Federal Credit or Reimbursement

23 CFR 710.510(b) 23 USC 108(c)(1)

- Does not require NEPA Decision
- Does not allow 4F Properties if the State wishes to maintain Federal eligibility for future Federal assistance on any part of the transportation project
- Acquisition will start when legally permissible by State law
- No request for reimbursement/credits
- Must comply with Federal Law if the project maintains federal eligibility
- Subject to condemnation if State Law allows

Requirements:

An agency may carry out early acquisition entirely at its expense. However, to maintain eligibility for future Federal assistance on the project, the early acquisition must comply with the requirements in 23 CFR 710.501 (c) (1) -(5):

- Property lawfully obtained by the State agency
- Not 4F property
- Acquisitions and relocations comply with the Uniform Act
- State agency complies with Title VI of the Civil Rights Act
- FHWA concurs with the State that the Early Acquisition did not influence the NEPA decision for the proposed project including:
 - The need to construct
 - The consideration of alternatives, or
 - The selection of design or location

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2. **State-funded Early Acquisition Eligible for Future Credit** *23 CFR 710.501(c)*

- Does not require NEPA Decision
- Does not allow 4F Properties
- Acquisition will start when legally permissible by State law
- Request credit for the portion of the property after incorporated in the Federal-aid project
- Must comply with Federal Law
- Subject to condemnation if State Law allows

The requirements are the same as listed in 11.0.01 above but also include:

- Property is incorporated in the project to which the credit will be applied; and
- The amount of the credit may be current fair market value or historic acquisition cost to acquire; however, this credit must be applied consistently within the project
23 U.S.C. 323(b)(2)

3. **State-funded Early Acquisition Eligible for Future Reimbursement**

23 CFR 710.501(d) 23 USC 108(c)

- Does not require NEPA Decision
- Does not allow 4F Properties
- Acquisition will start when legally permissible by State law
- Request for reimbursements/credits can be made after NEPA is completed and real property interests are incorporated in a Title 23 project and all applicable requirements are met.
- Must comply with Federal Law
- Subject to condemnation if State Law allows

The requirements are the same as listed in 11.0.01 above but also include:

- State has a mandatory, comprehensive, and coordinated land use, environmental, and transportation planning process under State law, and the Governor has determined in advance that the acquisition is consistent with the State transportation planning process;
- The state selects the alternative for which the real property interest is acquired pursuant to NEPA;
- Prior to approval for Federal participation, NEPA is completed; and
- Reimbursement is based on the usual costs to acquire-*23 CFR 710.203(b)(1)*.

4. **Federally-funded Early Acquisition** (Stand-alone project) *23 CFR 710.501(e) 23 USC 108(d)*

- NEPA decision is required for the early acquisition stand-alone project only. (Separate from NEPA for the transportation project. (usually a CE).
- Does not allow 4F Properties.
- Start acquisition after NEPA is complete for the Early Acquisition Project.
- This is a reimbursable, stand-alone, Federal-aid Project based on FHWA authorization to proceed with acquisition.
- Must comply with Federal Law
- Is not subjected to condemnation

State certifies and FHWA concurs that the following requirements have been met:

- State has authority to acquire under State law;

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- Is for a Title 23 eligible transportation project and does not involve 4F properties;
- Will not cause significant adverse environmental impacts as a result of the EA project or from cumulative effects of multiple EA projects;
- Will not limit the choice or otherwise influence the NEPA decision of FHWA;
- Will not prevent the lead agency from making an impartial decision as to alternatives;
- Is consistent with the State transportation planning process under 23 U.S.C. 135;
- Complies with other applicable Federal laws (including regulations);
- Will be acquired through negotiation, without the threat or use of condemnation.
- Will not reduce or eliminate relocation benefits under the Uniform Act and Title VI of the Civil Rights Act;
- The Early Acquisition project is in the Transportation Improvement Plan; and
- NEPA for the Early Acquisition project is complete and approved by FHWA.
- Real property interests acquired cannot be developed in anticipation of the transportation project until a NEPA decision for that transportation project has been completed. No development activity related to demolition, site preparation, or construction that is not necessary to protect health or safety may be undertaken.
- If reimbursement is made and the real property interests are not incorporated in a project within 20 years, FHWA must offset the amount against Federal-aid funds apportioned to the State.
- Eligibility for Relocation Assistance-a person is considered displaced when required to move from the real property as a direct result of a binding written agreement for the purchase of the real property interest. Options to purchase and similar agreements do not create an immediate commitment or eligibility.

Note: The “Option” to purchase the property at a later date allows the property to remain occupied limiting the risk of blight in the neighborhood due to vacant buildings.

12.0 Protective Rents

- Protective Rents are designed and may be offered to compensate owners for lost rental income when their tenants vacate the premises prior to the conveyance of title in response to MDOT’s right of way acquisition process. Protective Rents benefit MDOT by mitigating the costs associated with relocation, including additional moving expenses and supplemental housing payments.
- Protective rents will only be used on a project-by-project basis and will be applied consistently throughout the project. Before using Protective Rents on a project where Federal funds are used, MDOT will notify and present the protective rents plan to FHWA for its review and approval.
- The specific issues that should be addressed in the plan include: 1) criteria for implementing the policy, 2) period owner would be compensated for keeping the units vacant, 3) method for determining the amount of compensation, 4) timing of the offer to owner, 5) timing of payment to owner.
- MDOT will enter into a lease agreement with the current property owner(s) that has been approved by FHWA, with the consideration for the lease agreement being assessed as an “Administrative Adjustment”. Consideration for the Lease Agreement will be determined based on current market rental rates provided by the appraiser and review appraiser assigned to the project.
- The Right of Way Operations Administrator will provide a Lease Agreement form for the acquisition agent/consultant to complete and present to the current property owner to be executed.
- Upon authorization by the Mississippi Transportation Commission, the Right of Way Director will execute the Protective Lease Agreement that has been approved by FHWA

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and executed by the property owner.

- The fully executed original Lease Agreement will be scanned to the Parcel Tracking parcel file room and the original will be retained with the recorded deed files in the Right of Way Division Administrator's Office.
- The Property Management Section will provide oversight and supervision of the leased property until it has been acquired and will oversee the demolition and clearance of the property.

12.0 Pre-Approved Deed Clauses

The following clauses have been pre-approved by the "MDOT" Attorney General's Office and the Mississippi Transportation Commission for use in lieu of the standard deed template.

1. Ingress-Egress Clauses:

Ingress-Egress Clause. "This conveyance includes all improvements, if any, located on the above described land and partially on Grantor's remaining land. The Grantee herein, its Agents, and/or Assigns are hereby granted the right of Ingress and Egress on Grantor's remaining land for removing or demolishing any improvements. The consideration herein named is in full payment of all said improvements."

Alternative Ingress-Egress Clause. "This conveyance and the consideration named herein include all improvements located on the above-described land and any improvements which are located and situated in such a manner so as to rest and lie upon both the above described property and the remaining real property of the Grantor(s). The Grantee herein, its agents and/or assigns are hereby granted the right of ingress and egress on the remaining property of the Grantor(s) for the limited purpose of removing or demolishing those improvements which are located and situated in such a manner so as to rest and lie upon both the above described property and the remaining real property of the Grantor(s). This right of ingress and egress does not extend to any improvements, which are located entirely upon the remaining property of the Grantor(s). The consideration named herein is in full payment of all said improvements."

Alternative Ingress-Egress Clause. This is a special ingress/egress clause in case of Drainage District approved by the MDOT ROW Title Section.

"The Grantee herein reserves the right of ingress and egress on the above described land for the purpose of clearing debris, dredging and maintenance of (example Hickahala Creek)."

2. Minerals Clause. "This conveyance is less and except all oil, gas and other minerals which may be produced through a well bore in accordance with Section 11-27-85 of the Mississippi Code."

3. Keep Fences Clause. "The Grantor reserves the right to remove any and all fences from the above described land on or before _____, or said fences become the property of the Mississippi Department of Transportation."

4. Keep Timber Clause. "There is reserved unto the Grantor(s) hereof the right to cut and remove all merchantable timber located on the lands hereby conveyed, provided such removal is made on or before _____. After said date all timber rights and interests, present or future, become vested in the Mississippi Department of Transportation."

5. Damage Clause. "It is further understood and agreed that the consideration herein named is in full payment and settlement of any and all damage and compensation which would be allowable under a decree were it rendered by the Court and jury in an Eminent Domain proceeding under the provision of the applicable laws and statutes of the State of Mississippi."

6. Donations Clause. Should a property owner wish to donate real property, the donations clause will

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either be inserted in the deed or incorporated into a separate notarized agreement. It will be necessary to obtain mortgage and/or other normal required releases. A property owner may donate without waiving the right to an appraisal.

"I/We fully understand that we have the right to receive just compensation for the real property herein described based on an appraisal of said property. I/We hereby waive our right to just compensation and donate the real property herein described to the Mississippi Transportation Commission. I/We further understand that we have the right to request that a fair market value appraisal of the property be made and we hereby waive that right."

7. Assignment Clause. "The above Deed of Trust was assigned to _____, on _____, in Deed Record Book _____, Page _____, Chancery Clerk's Office of _____ County, Mississippi.

8. Heirship Clauses:

Heirship Clause 1: Should be used when all heirs sign the same deed.

"The parties hereto acknowledge that they are the sole surviving heir(s) at law of _____, deceased."

Heirship Clause 2: To be used when the heirs do not all sign the same deed.

"Grantor herein acknowledges that he/she is one of _____ surviving heirs at law of _____, deceased, said heirs being _____, _____, _____, and _____ By this instrument _____ is conveying all his/her right, title and interest in and to the above described property."

9. Undivided Interest Clause. "This conveyance is of and for the Grantor(s) undivided interest in and to the above-described property."

10. Disbursement Clause. "Each Grantor hereof authorizes and directs the Grantee to pay all of the above-named consideration to _____, and _____'s receipt thereof shall be the same as if receipted for by the Grantor(s) hereof."

11. Ramp/Driveway Clause. As a further consideration, Grantee agrees to construct a ramp, driveway, or skirt at or about Station _____.

12. Total Take Clause. This is a total take clause and should be used when the whole piece of property is being bought. This should be typed at the end of the deed.

"It is the intention of this instrument to convey all of that certain parcel of land as recorded in Deed Book _____ at Page _____ in the Chancery Clerk's Office of _____ County, Mississippi.

13. Crop Clauses

"It is understood and agreed between the parties hereto that the consideration herein named does include damage for destruction of growing crops located on the lands hereby conveyed."

"It is understood and agreed between the parties hereto that the farming operations on said lands is under a Lease Agreement and that no part of the consideration set out above is intended to cover crop damages to the tenant. Should there be any damages to the growing crops, a separate instrument must be taken from the tenant."

"The Grantors reserve the right to harvest the growing crops on above-described land and agree to remove said crops on or before (Date)."

14. Mobile Home Clause. "Grantor warrants to grantee mobile home: Make _____, Model _____, and serial number _____."

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B. Endnotes

¹ 49 CFR 24.102(n) appendix

² 49 CFR 24.102(f)

³ 49 CFR 24.102(a)

⁴ 49 CFR 24.102(h)

⁵ 49 CFR 24.106

⁶ 49 CFR 24.102(g)

⁷ 49 CFR 24.102(g)

⁸ 49 CFR 24.102(k)

⁹ 49 CFR 24.102(e)

¹⁰ Mississippi Code of 1972 § 89-1-21

¹¹ *Whitworth v. Mississippi State Highway Commission*, 33 So.2d 612

¹² 49 CFR 24.106

¹³ 49 CFR 24.107

¹⁴ 49 CFR 24.102(i)

¹⁵ 49 CFR 24.102(i), appendix

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INTRODUCTION

This is the fifth presentation on the use of the MDOT appraisal forms. This edition applies to the changes made to the forms in 2023. Steps were taken to revise the formatting of the appraisal reports and to make them more compliant with USPAP as well as address all the issues that should go into preparing an acceptable appraisal report to meet the requirements of the Uniform Act and the *Uniform Appraisal Standards for Federal Land Acquisitions*. No major changes have been made to the forms since that time. However, documents that we rely on are “living documents” that may have changed **even since the new forms were released in 2023**. This presentation will attempt to address those items that should be found in the report that maybe are not currently presented.

This manual is not intended to teach you how to use or maneuver through the appraisal reports. That is a word processing issue. Although the intent for the development of the reporting formats was to maintain consistency in the reports, there may be times that additions or deletions are required for certain properties. Each of you perhaps had the opportunity to attend a work session on how to use the reports, and some of you may have found that there are certain ways that data can be entered or cannot be entered. You may have also found a few little “quirks” or problems in running the programs. Hopefully you have addressed those problems with someone or made note of the problem so that it can be corrected. The writer of this Guide realizes that there would be areas that need to be “tweaked,” and corrections or improvements made. The appraisal forms should be reviewed each year to ensure that they address the current Uniform Act regulations as well as the *Uniform Standards of Professional Appraisal Practice*.

The purpose of this manual is to advise the appraiser of items that should be addressed in the report, and perhaps ways to address certain appraisal related issues. As appraisers, we all know that our work product will be looked at, critiqued, and perhaps even criticized. As professionals, we should all strive to produce the best work product that we can. Even then, we may make a mathematical error, overlook something, or just did not look at the problem the way someone else did. We would all like our final product to go through the review process with flying colors-no questions asked. Even for the most experienced appraiser, which is not always the case. The review process is important in that it should bolster your final decision as to value and hopefully assure a more reliable estimate of value. The reviewer though will not normally be called on to defend your position-that will be your responsibility. The Preamble to the *Uniform Standards of Professional Appraisal Practice* states, “It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.” (USPAP 2024 Edition - PG 1)

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You will find in this manual that each of the appraisal reporting formats has been addressed. Each report will be “broken-down” into segments with a discussion that may include items that need to be emphasized, items that definitely need to be in the report, and ways to address certain issues such as uneconomic remnants, auxiliary improvements, quit-claim interests. Every effort will be made to not be repetitive since there are areas in the reports that are basically the same and addressing only one time will be sufficient.

The user of this manual is cautioned that this manual is to be used only as a guide and not to be perceived as instructions as this is the way it must or can be done. Do not rely solely upon this manual to gain approval through the review process or to defend your report.

The Guide is divided into sections that cover each of the different appraisal reporting formats. As mentioned, there are areas within each appraisal reporting format that basically apply to all the reporting formats. To avoid being repetitious, these areas will be grouped and discussed together in Section 1. There are also areas in the appraisal report of land, the appraisal report of improved property, and the appraisal report of excess land that need to be addressed only one time. Section 2 will discuss the “**Appraisal Report of Land**” and the “**Appraisal Report of Improved Property**.” Section 3 will address the Uneconomic Remnant Report. Section 4 will cover the areas of the Excess Property Report that are not discussed in Section 2. Section 5 addresses the “Comparable Sale Data” for both land and improved properties. This has been replaced with entering the required data into MDOT’s PTS. Section 6 addresses “Discovery Material”. Section 7 will address “Waiver Valuation.”

The current appraisal forms have been developed so that there will be some consistency in the reporting formats used by all approved fee appraisers for MDOT or LPA projects that conform to MDOT standards. Do not let the forms “confine” or “restrict” your analysis of the problem. As you go through the forms, there are areas that are “boxes.” We sometimes think that the size of the box indicates the amount of data or analysis that is required. This is not the case. The boxes will expand as you enter more data. The grids for the Sales Comparison Approaches will do most of the calculations for you. There may be times that you will need to add a row. Do not be afraid to do this. Although you are not encouraged to “modify” the forms, there may be times that you will need to do so by deleting or adding a page. For example, you may be appraising a property with two larger parcels. As such, you will need two “Before” land grids, but perhaps only 1 “After” grid. As stated, the purpose of this guide is to provide you with information on preparing an acceptable report. There may be times in the guide though that suggestions will be made in which some modification to the form may be acceptable.

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The presentation is focused on MDOT's appraisal forms. In doing so, at times, the presentation will have to present appraisal situations and issues that we face as appraisers. These issues will be presented in context with the application of the forms. There are at least two questions you must answer- "What and How?"

APPRAISAL GUIDE

SECTION 1

GENERAL INFORMATION

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As the forms have evolved over the years, there is no longer a dialogue box to be filled out on the Title Page. If a current form has been completed on a prior project, copy and paste an updated completed form into a new project folder and rename. Then use the find / replace function for the current report being prepared in lieu of a dialogue box.

Some appraisers have modified their appraisal forms that allow for use of excel spreadsheets to fill in the repetitive information. This is okay if the modified forms appear as the “official forms” provided by MDOT with the same or similar format.

- (1) Parcel Number(s) - Include all interests (W, T, Q) to be acquired. If you have an “X” deed, it is addressed separately in the Uneconomic Remnant Report. What if you have multiple deeds? Example: 001-01-00-W, 001-00-00-T, 001-00-00-T-001, 001-00-Q-001, 001-00-00-Q-002.
- (2) Owner – As shown on the acquisition deed. Make sure this matches the title report provided and request changes as needed.
- (3) Vacant / Occupied / Leased – Select Occupied or leased even if the improvements are not affected.
- (4) County – Current County you are working within.
- (5) Project Number – Project Number as shown on the current Appraisal Maps / Deed. For Local Public Agency (LPA) numbers should be shown on the acquisition plats.
- (6) FAP Number – This is the Federal Aid Project Number. These typically include prefixes such as NHS (National Highway System,) BR (Bridge Project;) STP (Surface Transportation Program;) etc. The various FAP numbers and related funding should be shown on the construction plans. If not, check the MDOT website.
- (7) Project Description – Termini shown on the Appraisal Maps.
- (8) The Report Date is the date you sign the report.
- (9) Effective Date of the Appraisal – Usually the last date of inspection of the subject property. Could be prior or later. Sometimes the date is shown when representative photographs are taken. For Court Update Appraisal Reports, the effective date is always the filing date for the eminent domain proceedings.
- (10) The Whole Tract is the Remaining Tract plus the Acquisition. The remainder includes any areas shown as being temporary easements. For “X” deeds, the remainder is -0-.
- (11) Report Requested for – There are several options available such as Original Appraisal, Revised Appraisal, Update for Court, or Original Appraisal for Court.

I would replace individual and not replace all as some numbers will not be replaced and this will insure you don't replace a field mistakenly.

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TITLE PAGE

Enter the type of Appraisal Report – i.e. Land, Land of Improved, Improved

This information is entered when the Title Page is completed. As previously discussed, the find / replace function can be used for repetitive information. Please make sure that the footers for both the report and addenda are populated when using find / replace.

Parcel Number(s)	_____
Owner	_____
Vacant / Occupied / Leased	_____
County	_____
Project Number	_____
FAP Number	_____
Project Description	_____
Effective Date of the Appraisal	_____
Report Date	_____
Report Requested for	_____

The box below should be completed by indicating the name of the appraiser, type of license, and the appraiser's address. Fill these in correctly and not use Appraiser: John Doe, etc.

This Appraisal and Appraisal Report Was Prepared By
Appraiser
Real Estate Appraiser #
Appraiser Address

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TABLE OF CONTENTS

The Table of Contents **cannot** be completed until the report has been finished. The page numbers presently shown are based on the template. When you finish the report, make sure you “Update Page Numbers Only” or “Update Entire Table.” Updating Entire Table sometimes bring pictures into the table of contents, which can be deleted. (See Template User Guide for instructions on updating TOC.) Check your headings and page numbers to see if they correspond with those in the report.

For items not included in the appraisal you are completing, simply delete the line shown within the TOC. For example, line items for Calculator Cost Form is rarely utilized; hence, this line item can be deleted. If the Cost Approach wasn't developed within the appraisal, you may wish to leave the Cost Approach Summary in the report but delete the Total Before Value and Total After Value from the TOC as they aren't applicable.

GENERAL INFORMATION

Parcel No. _____	Project No. (new) _____
FAP No. _____	Project No. (old) _____
County _____	
Owner(s): _____	Address: _____
Phone: _____	_____
Occupant(s): _____	Address: _____
Phone: _____	_____

Most of this information was entered from the Title Page with the Find / Replace function or with forms that use excel spreadsheets that populate the information throughout the report. If the property is occupied by someone other than the owner, enter the name(s) of the occupant(s), address(s), email(s) and phone number, if available. There may be instances when the improvement is vacant. A property address is needed for the fee owner. The physical address of the subject property should be shown on the Summary of Facts and Findings page. If vacant land, a physical location should be documented.

Don't let the above “boxes” define the information entered. As stated above you may have an email address or multiple phone numbers such as a landline or cell phone.

ESTATES/INTERESTS APPRAISED

Estate Appraised:	☐ Fee	Area of Whole Tract _____
	☐ Easement	Area of Remaining Tract _____
	☐ Quit-Claim	Area to be Acquired _____

Estates are interests in land. An easement is a “non-possessory interest.” Make sure you check all the appropriate boxes. “Other” allows you to enter the interest other than fee that is being acquired such as Quitclaim Interest. The current form doesn't show an area for a temporary construction easement; however, a line item for a TCE has been added by most of the appraisers working for MDOT. This simply provides more information at the beginning of the appraisal. Although TCE(s) are not a possessory interest in real property they are an interest in real property.

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IDENTIFICATION OF REPORT TYPE

Within the scope of the assignment and consistent with USPAP Standard Rules 1 and 2-2, the following analyses, opinions and conclusions have been developed and are reported in this Appraisal Report. Within the Scope of Work which is described in more detail later in this report, it may be necessary to invoke the Jurisdictional Exception Rule of the USPAP in certain instances so as to maintain conformity with the Uniform Appraisal Standards for Federal Land Acquisitions, and compliance with certain laws of the State of Mississippi, and certain Federal Regulations promulgated pursuant to The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended, 42 U.S.C §4601, et seq., and regulations promulgated pursuant thereto found at 49 C.F.R. Part 24.

Due to recent changes in the Uniform Act as well as changes in USPAP, the appraisal document is a living document and should be “changed” to reflect current USPAP as well as the updated Uniform Act. The 2024 edition of USPAP has an effective date of 1/1/2024 but does not have an end date. The need for standards to be updated on a regular basis has decreased.

Note: the above scope within the current forms address 49 CFR Part 24 but does not show that it has been amended, May 3, 2024.

On the other hand, changing market conditions have increased the need for new guidance related to USPAP standards on a more frequent basis.

Hence, 2024 USPAP is a stand-alone publication, and AOs, FAQs, and Reference Index is a separate publication. Although USPAP GRM also doesn't have an end date, it may be updated more frequently than USPAP. Please state the current date of USPAP that is applicable to the date of the appraisal.

USPAP 2024 has two written reporting options—don't forget oral reports must comply. The two written reporting options are Appraisal Report and Restricted Appraisal Report. The difference in each is in the depth of the analysis. Please note though that the Uniform Act does not address or recognize a “Restricted Use” report(s.)

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PROPERTY OWNER CONTACT

Property Owner Contact Record	
Subject Property Inspection Dates: _____	
The property owner or their designated representative was offered an opportunity to accompany the appraiser performing this appraisal during the appraisal inspection of the property. A Right of Way Acquisition Guide was mailed to (owner) on (date).	
Contact Comments	<i>Provide details of property owner contact via telephone, in person, or by registered/certified mail, explanation of the acquisition/project, and if permission was granted to inspect the property.</i>
Is the Property being Leased or Rented? ☐ Yes ☐ No	
Lessor: _____	Lessee: _____
Terms: _____	

The Property Owner Contact Record is vital. Not only is it required, but it also provides information on the property owner or the property owner's concerns that may be relevant in the appraisal process or in the acquisition process. You should include all the dates that you inspected the property. There may be times that you need to visit the property more than one time such as with a contractor, forester, etc. Document those dates. A suggestion is made to use your last date of inspection as your Date of Value. The Uniform Act requires you to give the property owner or designated representative the opportunity to inspect the property with you. § 24.102(b.) FHWA also requires that a Citizen's Guide be given to the property owner as well.

If you do not contact the owner by phone, a letter must be sent by registered certified mail. A copy of the signed certified receipt should be included in the addenda. Please allow for ample time for a response. Sometimes an email can be found for companies registered with the Secretary of State's Office, or the use of social media. If you are able to contact the owner, please encourage the owner or owner's representative to meet with you. Valuable information can be obtained during this time. The property owner may have a clearer understanding of the proposed acquisition and the process by meeting with you in person versus discussion over the phone or by letter. This will also assist the acquisition agent if these questions or concerns are handled before the acquisition process. If the opportunity was not offered, a very clear explanation is required. This may occur when the property owner or representative cannot be located.

In the Contact and Inspection Comments section, there needs to be a discussion of who inspected the property and with whom. Example, "On October 29, 2024, Appraiser John Smith and Relocation Agent Jane Doe met with Mr. and Mrs. Owner at their residence. At that time, the acquisition process was explained to them, and I informed them that I was to appraise the property and would need to make an inspection. Both inspected the property with the appraiser. Their primary concern was the proximity of the proposed right of way being approximately 2 feet from their front door."

If the property owner does not wish to inspect the property with you, please document. Example, "On October 29, 2024, I contacted Mr. Owner by phone to discuss the proposed acquisition. Mr. Owner was familiar with the process and stated that he did not wish to inspect the property with the appraiser. He gave the appraiser permission to inspect the property. A copy of the Appraisal Map pertaining to his property and Acquisition Guide were mailed to Mr. Owner. If the property owner provides you with an email address, it would be good to send said documents electronically with a read receipt for documentary purposes. On January 2, 2025, Appraisers John Smith and Jack Jones made an inspection of the property", or "On January 1, 2025, Mr. Property Owner was sent a certified letter along with a copy of the Appraisal Map pertaining to his property and an Acquisition Guide. Mr.

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Owner has received the letter and has not responded as of December 29, 2024. Efforts were also made to contact him by phone on January 1, 2025, January 8, 2025, and January 15, 2025. Having received no response from Mr. Owner, I will proceed with the inspection and appraisal of the property. A copy of the letter and signed receipt are attached."

It is important at this time to get information as to whether the property is rented or leased and the details if so. Also, any discrepancies that you discover during your inspection should be brought to the attention of the district coordinator.

Your inspection should not be just of the area to be acquired. Even though you may not value the total property at this time, you should inspect the total property including all improvements. If you have to testify about the property, you are subject to being questioned about what is on the property even though it is remotely located from the acquisition. With today's technology, high quality aerial photography is available as are drones. You must explain in the appraisal what steps were taken to inspect the subject property. There may be areas that remain that you did not think would be uneconomic remnants, but from inspection and meeting with the owner, you may find reasons to consider a remainder as an uneconomic remnant. If you do have an uneconomic remnant and an X-Deed is not shown on the plans, do not delay requesting one. **You need to make your request to the Review Appraiser first.** If the reviewer concurs with the request, said request will be forwarded to the District Coordinator. I would also cc the ROW Assistant Administrator. A formal explanation may be needed and all should be in writing.

RENT/LEASE INFORMATION

During the property owner contact, you need to confirm if the property is rented or leased. Ask is it oral or written. If the lease is in writing, request a copy. Attach the copy of the lease to your report and send a copy to the review appraiser requesting a Quit Claim Deed. You may find that in many cases, residential property is rented on a month-to-month basis. Agricultural property may be on an annual basis but often is not a written agreement. "Terms of Lease" are part of the forms. You do not need a detailed description of the lease at this time. General information such as a **5 year annual lease with payments of \$2,400 per year net may be sufficient.** In most cases, if a property is leased, a quit-claim deed is required. As with an X-deed, make your request to the review appraiser for concurrence who will forward to the District Coordinator and cc the ROW Assistant Administrator.

SIGNATURE

Appraiser:		Date:	
(signature)	_____		
(print name)	_____		
(license type)	Real Estate Appraiser # _____		

Forgetting to sign a report happens at least once in each of our careers. Take time to make sure you have signed the report. The date the report should be the date you finalized the report and submitted to review. Also, don't forget to print your name under your signature and fill in the type of license and number, Mississippi General Real Estate Appraiser #xxx. Should revisions be required due to review comments, the date of the appraisal report should reflect the current date; although, a new date will not need to be entered into PTS. This is tracked through a Detailed Reviewer's Status Report.

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SUMMARY OF FACTS AND FINDINGS

Project No.	Parcel No.
Property Owner: Address: Phone:	Leasehold (Tenants) Address: Phone:

This page cannot be totally completed until the appraisal of the property has been finalized. It is exactly what it says - "summarizes the report." Make sure when you finish the report that you complete this page.

This information should match the cover page and Page 2 of the report.

Identification of the Property Appraised:	Brief description of property identification, such as Section, Township, Range, Lot and Block, Street Address, etc.

This is just a general description or identification. Include the street address if available, section, township, range, and county. ***"The appraised property is located at 001 Hot Street, Neverland, MS and is described as being 40 acres in the NE1/4 of the NE1/4 of Section 1, Township 1 South, Range 1 East, Hope County, Mississippi."*** Use the grey box for details. ***Don't limit yourself if you wish to provide a brief description of any improvements.***

Estate Appraised:	(Fee, Easement, Other)

In most instances, the interest appraised is "Fee" or "Fee Simple". Other interests may be a Permanent Easement (PE Deed) or a Quit Claim Interest. **Additional interest may include temporary construction easement (TCE.)**

Size of the Whole Tract (Before):	+/- acres
Size of the Remaining Parcel (After):	+/- acres
Size of the Area to be Acquired:	+/- acres
Temporary Easements	+/- acres

This is the size of the total ownership before and after. Make sure the acquisition maps match the acquisition deed. In some instances, it may be necessary to search additional Sections outside the section within the acquisition as there may be property within the same name, contiguous, and unity of use for an area of the Whole Tract greater than what is shown on the acquisition maps. I have added a line for Temporary Easements. You may wish to show X acres (fee) and Y acres (TCE.)

Highest and Best Use Before (Whole Tract):	
Highest and Best Use After (Whole Tract):	

In many cases, you may be able to enter the HBU prior to actually making your HBU analysis later in the report. At other times though, you may need to make the analysis and then come back and fill this in.

Size of the Larger Parcel(s) (if different from the Whole Tract)	
Highest and Best Use of the Larger Parcel(s)	

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As this box states, “Size of the Larger Parcel(s) (if different from the Whole Tract).” Even though it is not required, it is suggested that you fill this in even if the Larger Parcel is the same as the whole tract. You may have more than one Larger Parcel and the HBU of each may be different. If so, you may not be able to complete this section until the analysis of the Larger Parcel(s) has been made.

Unit Value of the Land (Before)	
Unit Value of the Land and Improvements (Before)	
Unit Value of the Land (After)	
Unit Value of the Land and Improvements (After)	

Unless you have a predetermined value or already completed your valuation portion of the report, this section would be difficult to complete prior to writing the report and applying the necessary approaches to value.

- 1) Unit Value of the Land (Before): This typically will be a price per acre or PSF value, but you may have a Lot value or FF value. Note which unit that you are using. You may have more than one Larger Parcel. Show the unit value for each.
- 2) Unit Value of the Land and Improvements (Before): This is typically calculated by dividing the indicated total property value by the building square footage, heated area for residential; gross building area for commercial or industrial. There may be times that you have a substantial number of site improvements that could skew this value. You can recognize just the land and main improvement but should note that is what is calculated.
- 3) Unit Value of the Land (After): Basically, the same comments as for the before, but there may be times that the remainder is different. If you stated, “Nominal Value” in the report, state “Nominal Value”. If a total acquisition, state “N/A.”
- 4) Unit Value of the Land and Improvements (After): Similar comments as before even if you have damages to the improvement. The method of calculation does not change.

Improvements:	(Briefly describe the improvements, such as, single family residence, shed, barn, etc.) (List any personal property not included in the appraisal report.)

This should not be difficult to do. You have inspected the property; therefore, you know what is there. You do not need to go into great depth at this point.

Total Before Value:	
Total After Value:	
Just Compensation:	

Allocation of Compensation for All interest: (List all interest such as Q interest, Temporary Easements, Warranty Deeds, etc.)				
Parcel No.	Land	Improvements	Damages	Total

I don't think that you can complete these two areas until you have finished the valuation process. You will need to come back to this page and complete.

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- 1) These values come from one of the approaches that you adopted. Make sure that they correspond with your final estimates.
- 2) List each separate interest, i.e., W, T, and Q and allocate the compensation that is due to each. If more than one parcel is to be acquired on any given instrument, the total value for that interest should be shown.
- 3) The amount allocated to each item (Land, Improvement, Damages, and Total) should come from your calculations and allocation in the report. Check your values and make sure the sum for each item is accurate and correct.

Effective Date of the Appraisal:	
Date of Report:	

These dates should automatically enter when you complete the data in the Find / Replace or clone an existing report / have your own software. I have seen where some dates are shown as 01/01/2025 on one page and January 1, 2025, on another; hence, the find / replace function may not work. **Does not hurt to check to see if the dates are correct.**

CERTIFICATE OF APPRAISER

13. No one provided significant real property appraisal assistance to the person(s) signing this certification. (If there are exceptions, the name of each appraiser providing significant real property appraisal assistance must be stated. The extent of the appraisal assistance must be stated within the body of the report.)

The Comments to **USPAP SR 2-2(a)(ix)** references “*state the extent of any significant real property appraisal assistance*” see USPAP Guidance: Advisory Opinion 28 and 29, additionally **USPAP SR 2-3(a)** referencing the Signed Certification which also states “*no one provided significant real property appraisal assistance to the person(s) signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)*”

USPAP does not define significant real property appraisal assistance, but in the FAQ’s basically says that the individual must contribute to the valuation analysis in a noteworthy way and the assistance is related to the appraisal process or requires appraiser competency. It goes on to say that an individual who merely collect or provides data for use in the analysis does not provide significant appraisal assistance and non-appraisers who provide assistance should not be identified in the certification, only appraisers can sign the certification or identified as providing significant appraisal assistance.

Examples of contributions made by appraisers that constitute significant real property appraisal assistance include identification of comparable properties and data, inspection of the subject property and comparable sales, estimating accrued depreciation, or forecasting income and expenses.

14. I **have not** performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment. If applicable;

USPAP Ethics Rule Conduct Section, **USPAP 2024 Edition Page 9**, states “....an appraiser must disclose to the client, and in each subsequent report certification:

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- *any services regarding the subject property performed by the appraiser within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.”*

“have not” is highlighted that you can change between “have” or “have not.” If you have performed any service, you must state what the service was. USPAP says in other capacity not just appraisal or appraisal review. If you have not, If applicable can be deleted.

Based upon my independent appraisal and the exercise of my professional judgment, it is my opinion that the valuation of the subject property is as follows:			
Fair Market Value of the Whole Tract (as defined in this report)	Before		\$
Fair Market Value of the Remainder Property	After		\$
The difference between the Fair Market Value of the whole tract and the remainder is			\$
Date	Appraiser (sig.)		
	(name)		
	(License)		
	Real Estate Appraiser #		

The top box is part of the Certification for “Land” and “Improved” properties. You will notice that it addresses the “Before and After.” You will not be able to complete this until you have finished the report. The main point is that the three figures - “Before, After, and Difference,” must come from somewhere in the report, normally found in your reconciliation. Again, please fill in your complete license type.

USPAP 2024 Edition – Page 25 - SR 2-3 states that “A signed certification is an integral part of the appraisal report.” Make sure you sign the certification!

The certification within the MDOT appraisal forms address all the elements required with the noted exception of number 6 of the certification. Reference is made to 49 CFR 24, Subpart B, dated January 4, 2005. **The Uniform Act was amended on May 3, 2024, to go into effect on June 3, 2024. Subpart B was amended under the current version. Please revise the certificate to reflect the current Uniform Act, as amended on May 3, 2024.**

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APPRAISAL SCOPE OF WORK

§ 24.103 Criteria for appraisals. (a) Appraisal requirements. This section sets forth the requirements for real property acquisition appraisals for Federal and federally assisted programs. Appraisals are to be performed according to this section, which is intended to be consistent with the USPAP. (See appendix A to this part, section 24.103(a). The agency may have appraisal requirements that supplement this section, including, and to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), also commonly referred to as the “Yellow Book.” The USPAP is published by The Appraisal Foundation. The UASFLA is published by the Appraisal Foundation in partnership with the Department of Justice on behalf of the Interagency Land Acquisition Conference. The UASFLA is a compendium of Federal eminent domain appraisal law, both case and statute, regulations, and practices. Copies of the USPAP and the UASFLA may be ordered from The Appraisal Foundation in print and electronic forms.

(1) The agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and performance of an appraisal under this section depends on the complexity of the appraisal problem.

(2) The agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally assisted program appraisal practice, and at a minimum, comply with the definition of an appraisal in § 24.2(a) and the requirements in paragraphs (a)(2)(i) through (v) of this section. (See appendix A to this part, sections 24.103 and Section 24.103(a).)

As appraisers, we “fall under several umbrellas”. We must meet the requirements of the Uniform Act, Mississippi Law, the “Yellow Book” as approved by FHWA for Local Sponsor(s,) and USPAP. If you were to analyze each of these, you would find that other than case law, the Uniform Act, “Yellow Book,” and USPAP are really not that much different from each other. As to “Scope of Work” this section will address issues raised in USPAP. You will find that the appraisal forms have made an attempt to address these same issues. The “Scope of Work” may be different for each assignment. It is the appraiser’s responsibility to understand the scope of work.

Prior to the “Scope of Work” rule, we had “Departure.” The Departure Rule allowed for flexibility in USPAP. It allowed the appraiser to do something less than the work required by certain Standard Rules, as long as doing so did not yield assignment results that weren’t credible and as long as disclosures were made. Certain Standard Rules could not be departed from. The Departure Provision was replaced by the following rules: Ethics Rule, Records Keeping Rule, Competency Rule, Scope of Work Rule, and Jurisdictional Exception Rule.

USPAP SR-1, Page 15, states for each appraisal and appraisal review assignment, an appraiser must:

1. identify the problem to be solved
2. determine and perform the scope of work necessary to develop credible assignment results; and
3. disclose the scope of work in the report.

USPAP defines Scope of Work as “the type and extent of research and analyses that will be performed in an appraisal assignment.” It further states under Comments, **Page 15**, that

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Scope of work includes, but is not limited to:

- *The extent to which the property is identified;*
- *the extent to which tangible property is inspected;*
- *the type and extent of data researched, and*
- *the type and extent of analyses applied to arrive at opinions or conclusions.”*

Examples:

SITUATION	STEP 1: IDENTIFY THE PROBLEM	STEP 2: PLAN THE SOLUTION	STEP 3: APPLY THE SOLUTION
Client plans to sell and just wants to know the value	How much will the property bring?	Inspect the interior and exterior of the property; gather data on recent sales of comparable properties and apply the appropriate approach to value	Develop an opinion of market value
Lender plans on making a small, low-risk loan	Is the property adequate security for the loan?	Inspect the interior and exterior of the property; gather data on recent comparable properties; and apply the appropriate approach to value	Develop an opinion of market value
Client is a government agency acquiring necessary rights of way for a new roadway	What is the before and after values of the properties being affected by the project?	Inspect the interior and exterior of the properties being affected; gather data on recent comparable properties; and apply the appropriate approach(s) to value.	Develop an opinion of the before and after market values

SCOPE OF WORK	
Application of standards rules that are always critical to any assignment	Critical rules include ethics and competency requirements, identification of the problem to be solved, and identification of the appropriate scope of work.
Plus, Standards rules that are necessary to the assignment	Applicable standards rules vary depending on the circumstances
Equals Solution for the assignment	Leads to credible results given the intended use.

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Standards Rule 2-2, Content of a Real Property Appraisal Report

The steps within USPAP 2024 for the Content of a Real Property Appraisal Report are shown below as indicated in the MDOT forms. The Forms for Scope of Work are for MDOT and agencies with MDOT oversight and FHWA. Please refer to the paragraph above from the Uniform Act regarding Scope of Work.

- (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and at a minimum:

2-2 (i) (ii)

Identification of Client and Intended Users

The Mississippi Department of Transportation requested the appraisal of the property described in this report and is the client. The intended user of this appraisal report is the Mississippi Department of Transportation and such employees or agents authorized by The Mississippi Department of Transportation to utilize the information contained herein. There are no other intended users.

Client: the party or parties who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent. USPAP 2024 – Definitions – Pg. 4. **It is not necessarily who pays.**

Intended User: the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment. USPAP 2024 – Definitions – Pg. 5.

It is important to understand that parties who receive, or who might receive, a copy of the report are not automatically intended users. **A party becomes an intended user only because the appraiser intends that party to use the report.** See Advisory Opinion 36 which states:

“This report is intended for use only by (identify the client) and (identify any other intended users by name or type.) Use of this report by others is not intended by the appraiser.”

Based on the “Identification of Client and Intended Users” in the appraisal forms, who is the client and intended users?

2-2 (iii)

Intended Use of the Appraisal Report

The facts, analyses, opinions, and conclusions contained in this appraisal report establish an estimate of just compensation, as prescribed under the laws of the State of Mississippi, payable for the acquisition of specified real property rights, being acquired for public use. The estimate of just compensation in this appraisal report includes the fair market value of the property, damages to the remaining property, if any, and such curative costs as are permitted by the Laws of the State of Mississippi, and, upon determination by appraisal review that this appraisal report complies with all applicable standards and requirements, serves as the basis for the establishment of the amount believed to be just compensation for the acquisition of the “real property” described herein. There are no other intended uses.

USPAP 2024, Page 5, defines Intended Use as **“the use(s) of an appraiser’s reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.”** See Advisory Opinion 36

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USPAP Statement within Advisory Opinion 36, Page 105, suggests the following statement:

“This report is intended only for use in (state the use). This report is not intended for any other use.”

2-2 (vii) – Summarize the scope of work used to develop the appraisal.

Purpose of the Appraisal

The purpose of the appraisal is to render an opinion as to the Fair Market Value of specified real property as of the stated date and, through application of the Before and After Rule as prescribed under the laws of the State of Mississippi, the valuation of the remainder of specified real property. The difference between these two valuations is the value being sought by the client and is reported to the client as the “fair market value of the area to be acquired and damages, if any, to the remainder”.

As this states, the purpose of the appraisal is to render an opinion as to the FMV of specified real property as of a stated date. USPAP 2024, Page 23 - Standard 2-2 (a)(vii).

The purpose of USPAP is outlined in the Preamble. The Preamble emphasizes the importance of promoting and maintaining a high level of public trust in the appraisal practice by establishing requirements for appraisers. It highlights the need for appraisers to develop and communicate their analysis, opinions, and conclusions in a manner that is meaningful and not misleading to the intended users.

2-2 (viii)

PARAMETERS OF DATA SEARCH

Parameters of Data Search

The scope of the assignment is to collect and verify as completely as possible, comparable sales, and rentals, if applicable, from within the subject area, or other areas that, in the opinion of the appraiser, are reasonably comparable to the subject area, so that a value conclusion may be derived.

Sources of the data, utilized for this appraisal, include county deed records, real estate brokers, real estate appraisers, and other individuals knowledgeable in the local real estate market and, as applicable and appropriate, other individuals knowledgeable in specific types of property. One or more of the principals involved in the transactions, grantor, grantee, attorney, financier, broker of the transaction, or their representatives, have verified the market sales used in this report. Mississippi is a non-disclosure State. Other than the recordation of a deed, there is no legal requirement for grantors, grantees, or other parties to a transaction, to disclose any information relative to the transfer of real property. Since there is no legal requirement for the deed to include the transaction price when it is recorded, it is possible that there are transactions for which purchase price data could not be obtained.

Nothing really required here, but you should read and make sure that you have met the criteria laid out. Standard 2-2 (a)(viii) – summarize the scope of work used to develop the appraisal. Under comments: “Summarizing the scope of work includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed. See Advisory Opinion 28.

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EXTENT OF PROPERTY INSPECTION

Extent of Property Inspection

The extent of the subject property inspection, including interior and exterior areas, is required content of the appraisal report per the USPAP Scope of Work Rule and per guidance from the FHWA regarding requirements for scope of work. The "extent of the inspection process" includes but is not limited to, a declaration as to the part or parts of the property that were viewed or not viewed during the inspection; for structures and other improvements, whether such items were physically measured by the appraiser, whether interior and/or exterior inspection was performed for each item, and a declaration regarding the level of detail associated with the inspection of tangible property. The following is a description of the extent of the inspection performed on the subject property for this appraisal assignment:

You must describe the extent of the property inspection. Did you just inspect the area to be acquired? Did you view all parts of the property? Did you inspect the exterior only? Did you take pictures?

Example: *The appraiser, along with Moe, Larry and Curly met with the property owner on May 11, 2024, in order to perform a physical inspection of the property. At that time, the interior and exterior features of the improvements on the property were observed along with taking measurements of the exterior walls of the improvements. Interior and exterior pictures were made at this time. An inspection of the land, both the areas to be acquired , as well as the remainder was then made by walking around to different areas of the property.*

You may want to add this statement:

In the event that any improvements in this report are appraised, the inspection deals only with valuation issues. The appraiser is not an engineer and is not qualified to assess structural integrity or the adequacy and condition of their mechanical, electrical, or plumbing components. This appraisal is not a property condition report and should not be relied upon to disclose any conditions present in the property, and it does not guarantee the property to be free of defects. The appraiser is not a licensed inspector and did not make an "inspection" of the improvements as defined by any state or federal regulations for real estate inspections.

While reference to FEMA Flood Maps is made, the appraiser is not a surveyor and is not qualified to make flood plain determinations. It is recommended that a qualified party be consulted regarding flood plain or wetland conditions before any investment discussion is made.

**Also, can be stated as an additional assumption and limiting condition.*

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2-2 (x)(1)

VALUATION PROCESS

Valuation Process

The data obtained is to be analyzed, when applicable, via the Cost Approach, Income Capitalization Approach, and the Sales Comparison Approach. The analysis includes appropriate support for any adjustments made and the value conclusions. The values derived via these three approaches, if developed, are then reconciled into final opinions of value for the subject property for the before condition and after condition. The just compensation opinion thus derived by this process encompasses the fair market value of the partial acquisition, improvements within the acquisition, damages to the remainder (if any), including any curative costs impacted by the acquisition in accordance with the Uniform Act and the Laws of the State of Mississippi.

Please read—basically explains the process in arriving at “Due Compensation.”

2-2 (v)

PROPERTY RIGHTS APPRAISED

Property Estate(s) Appraised:	List and describe, if necessary, the property right(s) appraised (i.e., fee simple, easement, other)

Do not let the size of the box restrict you! In most instances, you will have a Fee acquisition (W). If you have other interests to be acquired such as an easement or Quit- Claim interest, you need to state those. If you do have a “Q” interest, this is a good time to discuss this particular interest. For example: A tenant owns a mobile home, which is personal property, but has attachments to the MH as well as power pole and septic system. You would need a “Q-Deed” for that tenant’s interest. Perhaps you have a long term lease. Now you have a lessor/lessee interest that will have to be addressed in the report. You are going to establish value based on fee, but you may need to allocate to the separate interests. At this time, you can address the main terms of the lease (Beginning/End Dates, Payment, Eminent Domain Clause, etc.)

2-2 (vi)

FAIR MARKET VALUE DEFINED

Fair Market Value Defined

Fair Market Value is value in exchange. It is “the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress”. (See the Terms and Definitions section of this report for the source of this definition)

The source of the definition must be stated in the appraisal report – Standard 2-2 (a)(vi). As indicated above, the source is within the MDOT forms. It is now a requirement for the use of MDOT forms / format for projects with MDOT oversight. So, this shouldn’t be an issue.

How many of you are familiar with this definition? If you are asked on the witness stand to give the MS definition, could you do so? It is very similar to the typical definition, but not exactly the same.

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ASSUMPTIONS AND LIMITING CONDITIONS

These are the conditions on which an appraisal is based. You should read it. Your value is based on these assumptions and limiting conditions.

A general assumption is a typical assumption of an appraisal. A limiting condition is a special condition that limits the use of an appraisal, primarily by specifying the intended use and intended uses of the appraisal report. If an appraiser has a general expectation regarding certain conditions and has uncovered no indication which might call such assumptions into question, he/she can treat the assumption as a general assumption, and as a consequence is not required to meet the disclosure and analysis requirements of an extraordinary assumption or hypothetical condition.

Example: An appraiser inspecting a house may not be qualified to detect termite infestation without an extensive expert investigation. Depending on the scope of work expected by the users of the appraisal and the appraisal's limiting conditions, if the appraiser has not observed any indications of termite infestation in the normal investigation process, the appraiser may omit such an investigation and make a general assumption that the property is not infested with termites and not have to meet the analysis and reporting requirements of an extraordinary assumption. However, the limiting conditions and description of the scope of work would need to make it clear to the users of the report the extent of the appraiser's investigation of the subject property and that the focus of the appraiser's investigation was determination of characteristic relevant to valuation and not the explicit detection of termites which would be the purview of a termite or home inspector and probably beyond the expertise of the appraiser.

General assumptions and limiting conditions are sometimes thought of as “boilerplate” for appraisal reports, but each assumption or limiting condition must be reasonable and supportable in the context of the appraisal and must not conflict with appraiser's other responsibilities such as the identification of extraordinary assumptions or hypothetical conditions.

An example of additional assumptions and limiting conditions applicable to this appraisal are as follows:

In order to estimate compensation, the “before and after” technique has been used. This involves appraising the whole property, the acquisition, and the remainder property. The valuation of the whole property does not take into consideration project influence. The acquisition is valued as a pro rata part of the whole. The remainder is appraised as impacted by the acquisition and project. A forecast is being made when appraising the remainder after. This forecast is a hypothetical situation. The compensation includes the value of the acquisition and any damage to the remainder that may arise.

An opinion of title was supplied by MDOT. Title is assumed to be marketable and free and clear of all liens, encumbrances, easements, and restrictions except those specifically discussed in this report or provided in the opinion of title. The property is appraised assuming it to be under responsible ownership and competent management and available for its highest and best use.

If applicable, the assumption is made that all drives will be reconnected with like kind material. This is a typical MDOT construction practice.

The assumption is made that any water flows in the after condition will be at least as efficient as the before condition with no degradation in water retention on the subject property.

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It is assumed that the project will be constructed based on current plans submitted. Any changes or alterations in these plans may have an effect on value. The appraiser reserves the right to review any changes in the plans and make adjustments to the value if necessary.

The assumption is made that the FEMA maps referenced in this report depict accurate flood zone designations.

The user of this report is urged to obtain the services of specialists for the purpose of conducting engineering studies. While the appraiser refers to FEMA flood maps, he/she is not a surveyor and is not qualified to make flood plain determinations. The appraiser recommends that a qualified party be consulted before any investment decision is made.

The above examples have been included by most approved appraisers for MDOT and projects with MDOT oversight. However, these are not included within the forms and would need to be inserted by the appraiser. Additionally, most appraisers are utilizing the US Fish and Wildlife Wetlands Mapper to identify wetlands. A similar statement as with FEMA flood maps would be appropriate.

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2-2 (a)(xiii)

EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

USPAP 2024 Definitions, defines extraordinary assumption and hypothetical conditions as follows:

Extraordinary Assumption: as “assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser’s opinions or conclusions. Comment: Uncertain information might include physical, legal or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends, or the integrity of data used in an analysis.

Hypothetical Condition: as “a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results but is used for the purpose of analysis.” Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristic of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

When is an extraordinary assumption or hypothetical condition appropriate? What is the scope of work? The determination of the scope of work appropriate to the needs of the client, the use of the appraisal results, and the expectations of the appraiser’s peers frame the extent of the general assumptions and limiting conditions of the appraisal assignment.

An assumption is a statement or condition which is presumed or assumed to be true and from which a conclusion can be drawn. An **extraordinary assumption** is an assumption which is found to be false could alter the resulting opinion or conclusion. A **hypothetical condition** is an assumption made contrary to fact, but which is assumed for the purpose of discussion, analysis, or formulation of opinions.

Examples of Extraordinary Assumption

The appraiser observes items which might potentially indicate the presence of environmentally hazardous material but has no direct knowledge of any environmental contamination and is not qualified to detect such conditions. He/she may continue to formulate an opinion of value under an extraordinary assumption that the property is not environmentally contaminated. The appraiser would need to communicate the extraordinary assumption made along with the value conclusion so that the users of the report can make their own determination of the reliability of the results given the observed condition.

Examples of Hypothetical Condition

The appraiser assumes that a property is zoned commercial or can be rezoned for commercial purposes when in fact it is zoned residential and there is no reasonable expectation that it could be rezoned commercial. This is a hypothetical condition that would have to be assumed in order to estimate the impact on value.

Consideration of Extraordinary Assumptions and Hypothetical Conditions involving Eminent Domain

The valuation of property for estimating just compensation due for a partial taking of property for purposes of constructing a public improvement may involve the use of several

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extraordinary assumptions or hypothetical conditions in both the before and after condition in order to formulate estimates of overall just compensation due or damages from non-compensable items, including quantifying project influence, damages from diversion or change in traffic, condemnor's blight, temporary construction easements, general benefits, special benefits, and other factors, sometimes in the same appraisal, or sometimes for every property affected by the project.

Following, if applicable, are all extraordinary assumptions and/or hypothetical conditions that affected the analyses, opinions, and conclusions of this report which are explained in the scope of work:
Following, if applicable, are appraiser instructions that affected the analyses, opinions, and conclusions of this report:
If applicable there are temporary easement assumptions.

MDOT has a standing TCE instruction as follows:

One of the functions of this appraisal may be to estimate the value proposed taking of a temporary easement.

The proposed taking is for construction purposes. The total acquisition and construction period is not exactly known, but acquisition is expected to be 1 to 2 years and the construction period approximately 3 years. Upon completion of the proposed construction, all easement rights will terminate. Therefore, the potential loss in value to the subject property will be determined over a five (5) year time period. Although construction on the subject property's potential easement may take no more than one or two months, the temporary easement will remain in effect until the entire project is complete. Therefore, for the purpose of this appraisal assignment, the assumption is made that any easement will be an encumbrance on the subject property for the duration of the construction period. The value of the easement is to be computed based on the time from the date of value to the anticipated end of construction for the subject project. If the appraiser is provided with a temporary easement instrument which does not clearly state as to whether the easement is to be an exclusive easement or a non-exclusive easement, the appraiser should consider the easement to be exclusive.

A statement might be added that ingress / egress to a property will be provided during the construction process as typical MDOT practice.

However, an exclusive easement may prohibit access to the property in the area of the TCE.

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The value of any property would be predicated on the *extraordinary assumption* that the proposed public improvement is to be constructed expeditiously subsequent to the date of taking.

The *Uniform Appraisal Standards for Federal Land Acquisitions*, 2016, Section 1.2.7.1, page 13, further states that:

“An extraordinary assumption may be used in an assignment only if:

1. it is required to properly develop credible opinions and conclusions,
2. the appraiser has a reasonable basis for the extraordinary assumption,
3. use of the extraordinary assumption results in credible analysis; and
4. the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

“A hypothetical condition may be used in an assignment only if:

1. use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison,
2. use of the hypothetical condition results in a credible analysis,
3. the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions, and
4. the hypothetical condition is provided to the appraiser in writing by the client or an authorized representative of the client.”

An appraiser can neither make an assumption or accept an instruction that is unreasonable or misleading, nor can an appraiser make an assumption that corrupts the validity of the value estimate. Written legal instructions that have proper foundation must be accepted and must be included in the appraisal report.

USPAP SR 1-2(f) states to identify any extraordinary assumption necessary in the assignment. An extraordinary assumption may be used in an assignment only if:

1. *the extraordinary assumption is required to properly develop credible opinions and conclusions.*
2. *the appraiser has a reasonable basis for the extraordinary assumption.*
3. *use of the extraordinary assumption results in credible analysis.*

USPAP SR-1(g) states to identify any hypothetical conditions necessary in the assignment. A hypothetical condition may be used in the assignment only if:

1. *use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison; and*
2. *use of the hypothetical condition results in credible analysis; and*

When using an extraordinary assumption of hypothetical condition, the appraiser must comply with the disclosure requirements set forth in USPAP for extraordinary assumptions. USPAP SR 2-1(c) and SR 2-2(a)(xiii)

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2-2 (a)(ix)

The Use of Significant Real Property Appraisal Assistance and and The Use of Consultant(s) Report(s)

If professional assistance was provided to the appraiser, the name of the individual(s) providing such assistance must be stated below. This includes significant real property appraisal assistance as well as providers of subsidiary assistance, e.g., appraisers, trainees, registered foresters, architects, attorneys, planning and permitting consultants, engineers, cost estimators, marketing consultants, etc.

If applicable, the following is a description of any necessary or appropriate steps that were performed in the completion of this appraisal assignment that were not previously noted in the scope of work, including a list of the individual(s) providing professional assistance and the type and extent of assistance provided.

USPAP does not define what significant professional assistance is, but it appears that the general conclusion is that “significant” means the contribution must be of substance. A person who collects or gives information but does not analyze does not provide significant appraisal assistance.

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AREA/NEIGHBORHOOD DATA

Data collection and analysis is as important as the methods and techniques used in the appraisal report to arrive at an estimate of value. The type of property and location of the property will somewhat dictate the type of data that you need. Referring back to “Appraisal 101”, there are generally two types of data-General and Specific. General data is often referred to the four forces that affect value-“social, economic, government, and environmental (physical)”. Specific data relates to the property being appraised, comparable sales, rental information, and market characteristics. In today’s world, gathering data, whether general or specific, can be done with a “click of the mouse”. There are numerous web sites that you can visit to get information about the national economy, local economy, population data, unemployment rates, etc. Local county officials can provide you with an abundance of information such as taxes, zoning, building codes, growth patterns, traffic counts, largest employers, etc. The importance of gathering this data is that it begins as the basis for adjustments that may be needed in the report.

You may wish to complete this page as it presently shown. Consultants often prepare a “Market Data Book” that discusses this data in narrative form versus checking boxes.

Area Defined	Brief description of the subject area boundaries or general limits, including the county or counties, cities and geographic features, i.e. Interstate or U.S. Highways, navigable waterways, etc.)		
Subject Location	☐ Urban	☐ Suburban	☐ Rural
Population Growth Rate	☐ Increasing	☐ Stable	☐ Decreasing
Primary Shopping/Trade Center – Area			
Primary Shopping/Trade Center – County			
Nearest Employment Center			

The Area Defined is fairly clear as to what is needed or required. Although you need to establish the boundaries of the neighborhood, you should also be aware of the *market area*. *The Dictionary of Real Estate Appraisal, 7th Edition*, and published by the Appraisal Institute, defines a market area as: The geographic region from which a majority of demand comes and in which the majority of competition is located. Depending on the market, a market area may be further subdivided into components such as primary, secondary, and tertiary market areas, or the competitive market area may be distinguished from the general market area.”¹

Therefore, understanding the market area is important as much as understanding or knowing your neighborhood. A market area may in fact include one or more neighborhoods. Subject location will either be urban, suburban, or rural. Sometimes it is difficult to distinguish. The following definitions from *The Dictionary of Real Estate Appraisal, 7th Edition*, may assist you in deciding the location:

Rural: Pertaining to the country as opposed to urban or suburban;²

Urban: Describes a built-up neighborhood with a concentration of population typically found within city limits or a neighborhood commonly identified with a city.³

¹ The Dictionary of Real Estate Appraisal, 7th Edition, Appraisal Institute, p. 116

² Ibid, p. 169

³ Ibid, p. 198

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Suburban: Describes a neighborhood that contains complementary properties with less concentrated population than is typically found in an urban neighborhood.⁴

Rurban: An area in transition from agricultural use to suburban residential and commercial development; an area with both rural and suburban characteristics that is within commuting distance of a city.⁵

Population growth rate is not a guess. Data is available either nationally, state, or local that can provide this information. One such source is the Census Bureau. The growth rate is important as it affects the demand for properties in the area. Although it may happen, one would wonder how you can have a negative growth rate, but an increase in property values. Other sources may include MLS, ESRI, and other online methods.

Location is also a time-distance relationship. Properties may be located in different areas of the county, but as they relate to time and distance to certain facilities such as shopping, schools, hospitals, etc., they may be equal. Don't make the assumption that because the properties are 20 miles apart, an adjustment has to be made for location. There may be other factors such as the type of road frontage or proximity to a noxious plant that may have to be recognized.

NEIGHBORHOOD ANALYSIS

Neighborhood Defined	(Brief description of the neighborhood area boundaries or general limits, including, if applicable, community name or other name reference utilized by area residents)				
Neighborhood Zoning	☐ Res.	☐ Comm.	☐ Ind.	☐ Other	☐ None
Neighborhood Utilities	☐ Elec.	☐ Gas	☐ Water		
	☐ All	☐ Part	☐ Sewerage		
	☐ Other				
Neighborhood Imp's	☐ Storm Sewer	☐ Curb/Gtr	☐ Sidewalk	☐ Street Lights	
	☐ Other				
Schools					
Recreational Facilities					
Fire					
Police					
Other					

A neighborhood is defined *The Dictionary of Real Estate Appraisal, 7th Edition*, published by The Appraisal Institute as: **"A group of complementary land uses; a congruous grouping of inhabitants, buildings, or business enterprises;" A developed residential super pad within a master planned community usually having a distinguishing name and entrance; A geographic area around a property that influences that property, i.e. its environment.**⁶ In rural areas, it may be difficult to establish identifiable neighborhood boundaries. The neighborhood may be a whole area of the county, for example—"The subject neighborhood is considered to be the northeast part of the county lying north of the city limits, west of the interstate and east of X County. Within this neighborhood are multiple land uses including residential, agricultural, rural commercial, timberland, and special purpose properties such as churches and schools". In rural areas, you probably will not have *Districts*. **Districts are identified by a predominant land use such as a central business district, commercial district, industrial district, etc. Districts are located within neighborhoods.**

⁴ *The Dictionary of Real Estate Appraisal*, 7th Edition, Chicago: Appraisal Institute, 2022, p. 184

⁵ Ibid, p. 169

⁶ Ibid, p. 130

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The percentages for present land use are more difficult to estimate for rural areas than for urban areas. Once you have established your neighborhood boundaries, take time to ride the neighborhood and do some “leg work”. Example: You are working on a 10 mile project with 100 parcels. You ride the project and view both sides of the road. Within those 10 miles, you find 20 home sites, 1 rural store, and 1 school. The remainder of the land is mixed timber and pasture. You next ride some of the county roads covering a certain distance from Point A to Point B. You do a similar tabulation, but you may have to consider “x” number of homes every “y” mile. After taking these samples, you can provide a reasonable estimate as to the percentages of different uses. Also, the tax office can provide information based on the grouping of tax parcel numbers as to what is improved and what is not.

The other items listed within the neighborhood analysis are not to be overlooked. Utilities that are available will have a significant impact on any future development. You may find in many counties that certain school districts have an impact on value. It is important therefore to know the school district lines. Taxes within the county can often be different and can also impact value. Is community water available? If not, what impact does that have on the requirement for lot sizes where private wastewater systems are required?

Comments:	<i>(Comments regarding but not limited to real estate activity, recently completed or imminent public projects, significant private business projects / expansions / cutbacks, or other items worthy of noting, if applicable)</i>

You will see this repeated several times in this guide-DO NOT BE AFRAID TO EXPAND THE BOX! This is a good point to summarize the information that you have checked or discussed. This is a good place to discuss the county’s health department’s requirements for lot sizes. **Discuss any positive or negative factors about the neighborhood.**

OWNERSHIP HISTORY

In developing a real property appraisal an appraiser must:

1. Analyze any current agreement of sale, option, or listing of the subject property, if such information is available to the appraiser in the normal course of business.
2. Analyze any prior sales of the subject property that occurred within the following minimum time period of five years.
3. Discuss below (as applicable) the quality and quantity of data available and analyze within the approaches used and the applicability or suitability of the data.
4. When there is a sale of the subject property to the current owner for an undisclosed price, the appraiser must state that he or she attempted to obtain the purchase price and other terms of the transaction without success. (If transaction price could not be verified please explain below.)

Ownership History					
Property Transactions during the last five years to Date:					
Date	Grantor	Grantee	Consideration	Book/Page	Ver.
Explanation:					

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This area is fairly self-explanatory, but a couple of points need to be made and emphasized. First, as Item 4 states, you must attempt to verify the sales price if the property was purchased in the last 5 years. If unable to do so, provide an explanation as to who you contacted.

Second, the column for “Consideration” does not mean you enter “\$10+” or “WD”. If you were unable to verify, state so and explain below. If you verified the sales price, enter the amount it sold for. During your property owner contact, you need to ask the owner if the property has sold in the last five years, or if you know it has, see at that time if you can confirm the sales price. A property owner may not want to confirm because he/she may think that you will “hold it against them” or base your value on that. Those are legitimate concerns that you need to address. Your value is not based on only one sale, but from a multitude of sales that you consider.

The last column is for the person that verified the sale.

Third, if there have been no transactions in the last 5 years, make a statement similar to “No transactions in the last 5 years”.

REAL ESTATE TAXES

Tax Information	
Tax Parcel I.D. Number	_____
Millage Rate	_____
Property Assessment Rate	_____
Special Assessments	_____
	True Value – Land _____
	True Value – Improvements _____

Real estate taxes are levied by governmental bodies such as cities and counties. You may also have taxing districts such as schools, fire, water, or local improvement district. There also may be special assessments for streets, sidewalks, etc. Real estate taxes are based on the assessed value of the property. This is referred to as an *ad valorem* tax or “according to value”. **Properties are either assessed at 10% or 15% of “True Value”.** For a property to be assessed at 10%, it must be classified as a homestead. All others are assessed at 15%. The millage rate is applied towards the assessed value. A millage rate is expressed as a certain mill per dollar. **For example, a 2% tax rate is \$2 per \$100, \$20 per \$1,000, or 20 mills per dollar (IAAO).** The county tax office uses the term “True Value”. Although this value should be as close as possible to “Market Value”, they are not always the same. Many counties have updated their land rolls and are continuously doing so. Their values may be a fair representation of the market value of the property. You should check to see the last time the subject property was updated. Be very cautious in relying upon “True Value” as an estimate of the market value of the subject property.

Why is this information important? Within a county, the millage rates may be different depending on the supervisor’s district, schools, etc. A tax district that is overburdened may see a decline in property values. In the Income Approach, taxes are part of the annual operating expenses.

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APPROACHES TO VALUE

Approaches to Value Utilized in this Appraisal Assignment Are:	
☐ Cost Approach	☐ Income Capitalization Approach ☐ Sales Comparison Approach
Reason(s) for excluding any approaches to value	

It is obvious that not all three approaches are applicable for each appraisal assignment. If the appraisal assignment involves land only or land with minor site improvements, the Sales Comparison Approach would probably be the only approach to value used. In the appraisal of a residential property involving the valuation of the residence, the Cost Approach and Sales Comparison Approach are perhaps both applicable. The *Uniform Act* does not require a Cost Approach though if there is **adequate market data**. Adequate market data is a key point. If you use the Sales Comparison Approach only, you probably will need more than just three sales to consider as comparable. If you make significant adjustments, the sales may not be as comparable as you would like. Therefore, a Cost Approach may be needed to support the Sales Comparison Approach, or it may actually be a better indication of value. As we all know, the older an improvement is, the less reliable the Cost Approach is. That does not necessarily mean it is not applicable. Analysis of the sales can provide you with depreciation rates that you can apply to the subject property. Therefore, the rate of depreciation is not based on your judgment but is related to market abstraction. If you are appraising an income producing property, one would expect to see the Income Approach.

If you do not use an approach that is applicable, then you must explain why it was not necessary. If the approach is not applicable, you should also explain. **You must do what is necessary to produce a credible report.** The *Uniform Act*, 49 CFR 24.103(a)(2)(ii) states: All relevant and reliable approaches to value consistent with established Federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (See appendix A, §24.103(a).) Appendix A, §24.103(a)(2)(ii) states: All relevant and reliable approaches to value are to be used. However, where an Agency determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

As previously stated, there is no longer a Departure Rule. In the past, if you stated a Specific Requirement was applicable but not necessary, you would consider Departure and had to explain. Today, the goal is to produce a **credible** opinion of value, and not all applicable concepts are necessary to do that. Applicability varies from property to property. Determination of the necessary requirements is a function of the **Scope of Work**, and disclosure of what is done or not done is part of the reporting function.

The focus is on decisions made in the **Scope of Work** and disclosure in the Appraisal Report. An appraiser may be faced with the problem of applying an approach which is known to be unnecessary to the production of a credible opinion, but the client, due to regulatory reasons, requires it. Unnecessary approaches may be misleading if the reconciled results are substantially different from one or more of the unnecessary approaches.

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FINAL RECONCILIATION OF VALUE

Final Reconciliation Of Value			
	Before	After	Difference
Sales Comparison Approach			
Cost Approach			
Income Approach			
Reconciliation Explain the appropriateness of the approaches, the accuracy of the data and calculations, and the quantity and quality of the data presented relative to the scope of the assignment and the specific appraisal problem.			

As stated above, not all three approaches to value are applicable. This section is to reconcile the three approaches and to explain which approach(s) were utilized and why. This section is not simply to state the adopted before and after values but to state why the approach adopted was the most appropriate as well as the accuracy of the data utilized.

More details will be provided in Section 2 of this document.

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DISTRIBUTION PAGE

Recommended Distribution Of Final Value Estimate
For Accounting And Acquisition Purposes Only
(To Be Completed After Appraisal Made)

Acre(s)

Parcel	Acq. Area	HBU	Land	Improvements		Damages		Total
				Item	Value	Item	Value	
								\$0
								\$0
								\$0
								\$0
								\$0
Totals	0.000		\$0		\$0		\$0	\$0

Parcel	Acq. Area	HBU	Land	Improvements		Damages		Total
				Item	Value	Item	Value	
								\$0
								\$0
								\$0
								\$0
								\$0
Totals	0.000		\$0		\$0		\$0	\$0

Parcel	Acq. Area	HBU	Land	Improvements		Damages		Total
				Item	Value	Item	Value	
								\$0
								\$0
								\$0
								\$0
								\$0
Totals	0.000		\$0		\$0		\$0	\$0

Total of all interests								\$0

The Distribution page is actually an accounting page. It “distributes” the total recommended compensation and “accounts” for each item and interest to be acquired. The final total at the bottom of the page should equal the difference in the “Before and After” that was calculated in the body of the report. Although the table appears to be fairly clear, there are some points that need to be discussed.

- (1) **Parcel Number:** For the Fee/Leased Fee Interest, this of course will be the “W”. You should verify your number with the deed.
- (2) **Acquisition Area:** This appears to be fairly simple, but there may be times that you have more than one larger parcel. Each area being acquired from the different larger parcels should be entered. Timber being acquired is not a damage item. It should be entered here. There seems to be a question on ponds and landscaping. For ponds, if you are doing a “cost to cure”, it would be a damage item. If you indicate in the report that the pond is acquired, it should be entered in the land or improvement area. Landscaping is a site improvement, and it is recommended that it be recognized in the land allocation.
- (3) **HBU:** You may have only one highest and best use, or you may have multiple highest and best uses. If you have separate larger parcels, you may have different highest and best uses. Show the HBU that corresponds with the larger parcel.
- (4) **Land:** This is the dollar amount for each area of land to be acquired.

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Photographs provide a visual aspect of the property for the person who is reviewing or reading the report. There are certain areas that need to be addressed with the pictures.

- (1) Area to be acquired: The number of pictures depends on the size of the acquisition. If you have a very minor strip taking, perhaps only one photo is adequate. A suggestion is made though to take a picture from each end of the acquisition. If you have a fairly large acquisition, try to take pictures at station numbers or property lines so that you can reference the location. Pictures of the easement areas are required. All improvements being acquired should be photographed. If a residence, front, rear, and interior pictures are required.
- (2) Remainder: Even with minor strip takings, a picture of the remainder is useful. If you have a residence on the remainder, a front view would be appropriate. Pictures of uneconomic remnants are required.

As noted above, the direction you are facing and the location from which the picture is taken is required. This is made easier for photographs taken with programs that indicate directions, elevations, etc. The following are examples of pictures that provide a good visual of the property:



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SKETCH

Sketch of Property¹⁷

AREAS

Area of Whole Tract - Before:

Area of Remaining Tract - After:

Area to be Acquired:



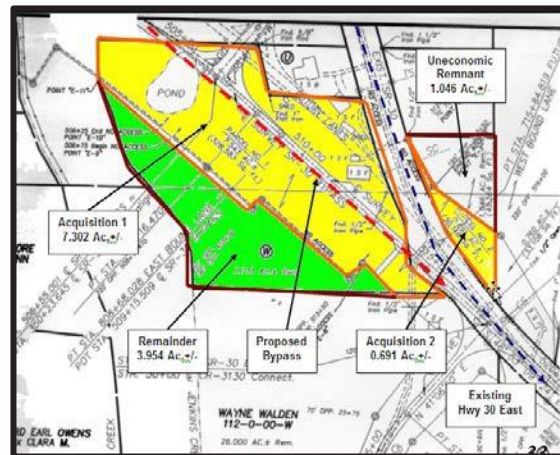
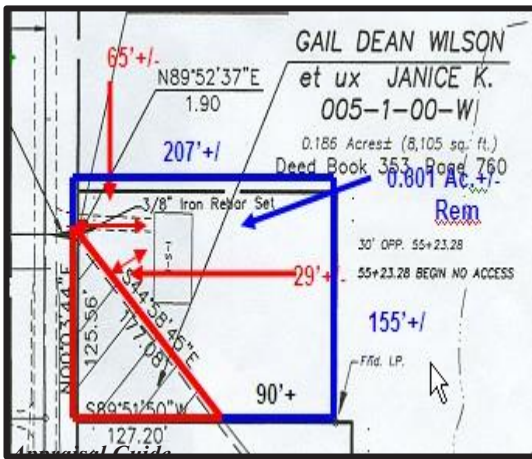
Directions North

¹⁷ Sketch Must Show: (Note: It is not required that the sketch be drawn to scale)

1. All boundary dimensions.
2. Location of all significant improvements.
3. Location of other significant features (creeks, woods, power lines, access limits, drives, fences, railroads, roads, etc.)
4. Relation of improvements to areas taken.
5. Area to be acquired.
6. Area of remainder(s).
7. Different uses (if appropriate).

Parcel No. _____ Project No. _____
Improved Property Appraisal Report – Addenda (Revised: April 2023) Page 9

The items shown on this page are self-explanatory. Many of you are now inserting a copy of the Appraisal Map. This is acceptable, but the map may not show all the features listed above. It is your responsibility to show on the sketch the items listed. #1 above can be difficult for larger tracts; hence, this may not always be feasible to show. Of importance is Item 4. The relationship of the improvements to the existing ROW and proposed ROW must be shown. Boundary dimensions for very large tracts may be difficult to show as you may not have that information or the complete boundary lines are not shown on the map. Following is a sample of using an insert of the Appraisal Map:

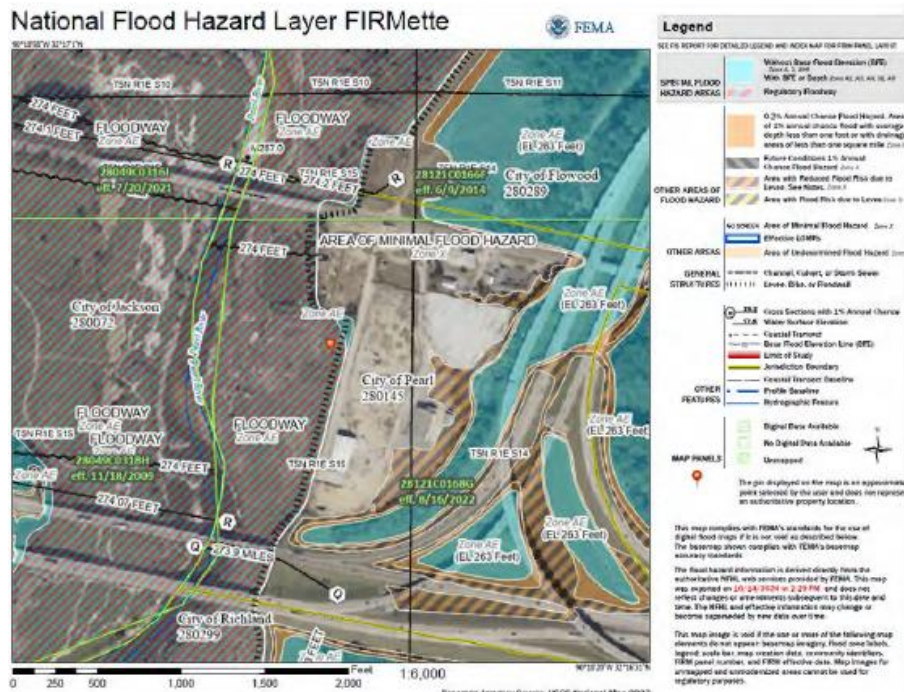


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FLOOD MAPS

You have made reference to the property being either in a flood plain or outside the flood plain in your Site Description. A flood map will have a panel number and date. Those should be included in the Site Description. FEMA.gov is a good source for flood maps and can be searched with an address or Latitude / Longitude. The National Flood Hazard Layer FIRMette has detailed information located on said map. In the previous Guide, references were made to for DEQ Flood Maps; however, these are now found on the FEMA maps. Also, most counties that have GIS maps have a layer for flood maps which also show floodways. There are many online sites and with today's technology, you should be able to identify whether or not you are in a flood plain or outside a flood plain.



FEMA Flood Map

There are some terms that you need to be familiar with such as the following:

100-Year Flood: The term is somewhat misleading. It is not that a flood will occur once every 100 years, but it is the flood elevation that has a 1-percent chance of being equaled or exceeded each year. It could occur more than once over this period of time or in a short period of time. The 100-year flood is the standard used by most Federal and state agencies and is used by the National Flood Insurance Program as the standard for flood plain management and to determine the need for flood insurance.

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Flood zones are geographic areas that FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map. Each zone reflects the severity or type of flooding in the area.

Moderate to Low Risk Areas:

In communities that participate in the NFIP, flood insurance is available to all property owners and renters in these zones:

ZONE DESCRIPTION

B and X (shaded): Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods. Are also used to designate base floodplains of lesser hazards, such as areas protected by levees from 100-year flood, or shallow flooding areas with average depths of less than one foot or drainage areas less than 1 square mile.

C and X (unshaded): Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.

High Risk Areas

In communities that participate in the NFIP, mandatory flood insurance purchase requirements apply to all of these zones:

ZONE DESCRIPTION

A: Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.

AE: The base floodplain where base flood elevations are provided. AE Zones are now used on new format FIRMs instead of A1-A30 Zones. These are known as numbered A Zones (e.g., A7 or A14). This is the base floodplain where the FIRM shows a BFE (old format). Some counties that have flood maps on- line show an AE and AE Floodway.

AH: Areas with a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

AO: River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.

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AR: Areas with a temporarily increased flood risk due to the building or restoration of a flood control system (such as a levee or a dam). Mandatory flood insurance purchase requirements will apply, but rates will not exceed the rates for unnumbered A zones if the structure is built or restored in compliance with Zone AR floodplain management regulations.

A99: Areas with a 1% annual chance of flooding that will be protected by a Federal flood control system where construction has reached specified legal requirements. No depths or base flood elevations are shown within these zones.

High Risk - Coastal Areas

In communities that participate in the NFIP, mandatory flood insurance purchase requirements apply to all of these zones:

ZONE DESCRIPTION

V: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.

VE: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

Undetermined Risk Areas

ZONE DESCRIPTION

D: Areas with possible but undetermined flood hazards. No flood hazard analysis has been conducted. Flood insurance rates are commensurate with the uncertainty of the flood risk.

Floodway: It is where the water is likely to be deepest and fastest. Should be kept free of obstructions. Permits are required for building in a floodway.

SUMMARY

This concludes Section 1. As stated, this Section attempts to cover the areas that are repetitive in all the appraisal reporting formats. ***The “pre-printed” material was not covered, but each of you should read those areas and become familiar with what is written. They are incorporated into the report that you sign. As such, you are taking responsibility for them.*** Much of the pre-printed material is referenced. It is your responsibility to become familiar with those references. Do not be afraid to ask where the information came from and how to gain access.

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SECTION 2

APPRAISAL REPORT OF LAND

And

APPRAISAL REPORT OF IMPROVED PROPERTY

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INTRODUCTION

The “Appraisal Report of Land” and the “Appraisal Report of Improved Property” are both considered an Appraisal Report. Standards Rule 2-2 (Real Property Appraisal, Reporting) contained in USPAP requires each written real property appraisal report to be prepared as either an Appraisal Report or a Restricted Appraisal Report. Restricted Appraisal Reports aren’t allowed under the Uniform Act. Some appraiser(s) still utilize the terms Summary Appraisal Report and Self-Contained Appraisal Report. These terms were utilized in prior versions of USPAP.

An Appraisal Report must at a minimum summarize the appraiser’s analysis and the rationale for the conclusions. MDOT formats are most similar to what was formally known as a Self-Contained Appraisal Report; especially if the sales are included within the appraisal report.

Additionally, the FHWA is the oversight authority with approval of the appraisal forms and format for local sponsoring agencies. Although, the forms may not meet Federal “Yellow Book” standards, the forms as approved by the FHWA for the local sponsoring agency(s) would then be considered to meet “Yellow Book” standards.

Each of these reporting formats has some similarities; more specifically up through the valuation of the land/site. Therefore, Section 2 will combine the discussion of these two formats.

You will see as you use this guide that suggestions have been made as to how to prepare the reports in a more narrative presentation. This should be reserved by the more experienced appraiser(s). The intent of these reporting formats is to assure that certain items are discussed and analyzed in the appraisal report. For ease of reading, it is recommended that these forms are utilized as shown; however, it is acceptable to complete the format in a narrative form as long as all the items shown are covered.

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SUMMARY OF FACTS AND FINDINGS

The purpose of this page is to allow the appraiser to emphasize the major points in the appraisal report in reaching the final conclusion of value. It is also useful to the reviewer or other readers of the report. Much of this page cannot be completed until you have finished with your report.

Project No. ← 1	Parcel No. →
Property Owner: Address: 2 Phone:	Leasehold (Tenants) 3 Address: Phone:

Item 1 in the above box should be entered automatically when you complete the Find / Replace function or with appraisers that have created their own forms that utilize excel spreadsheets to perform this function. **Item 2 and Item 3**, if applicable, must be filled out. When you meet with the property owner and/or tenant, make sure you obtain their mailing address (P.O. Box, Street Address, City, State, and Zip), and their phone number, either home or business. You may start to see that many property owners will provide a cell phone number.

Identification of Property and Estate(s) Appraised

Identification of the Property Appraised: 1	Brief description of property identification, such as Section, Township, Range, Lot and Block, Street Address, etc.
Estate Appraised: (Fee, Easement, Other) 2	

- (1) Identification of the Property Appraised: This does not require a detailed description of the property as to location but should identify the property so that it will not be confused with any other property. A simple statement such as the following may be adequate:

"The subject property is described as being situated in the Southeast Quarter of the Southeast Quarter, Section 1, Township 1 North, Range 1 East, Hinds County, Mississippi, with a physical address of 101 Highway 1, Jackson, Mississippi.", or,

"The subject property is described as being Lot 1, Block 1, of XYZ Subdivision located in the Southeast Quarter of the Southeast Quarter, Section 1, Township 1 North, Range 1 East, Hinds County, Mississippi."

- (2) Estate(s) Appraised: Here again, no detailed analysis or description is required. You should list though all interests that are being recognized in the report—Fee, Permanent Easement, Quit Claim Interest. There will be some properties, such as 16th Section lands, that an "E" instrument is used as opposed to a "W" instrument. The "E" instrument is a permanent easement. **Is a temporary easement an estate in land?**

A temporary easement is not an estate in the land; however, this should be shown and explained as a TCE is an interest in real property.

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Whole Tract Before, After, and Acquisition

Size of the Whole Tract (Before):	
Size of the Remaining Parcel (After):	
Size of the Area to be Acquired:	

This particular area of the page is fairly obvious as to what is required. The whole tract, remaining parcel, and area to be acquired should be what are shown on the Acquisition Map and Acquisition Deed. Check the acquisition deed with the map to ascertain that they match. This particular area does not distinguish different uses that may exist on the property. The remaining area shown on the Acquisition Map includes any areas shown for temporary easements.

Note, the acquisition map may not show the entire “Whole” tract as more likely than not it will just cover the affected tax parcel or section. It is your responsibility to check the surrounding areas for property within the same ownership, contiguous, with unity of use.

Highest and Best Use

Highest and Best Use Before (Whole Tract):	
Highest and Best Use After (Whole Tract):	

You may be able to complete this section prior to finishing the report and actually doing your Highest and Best Use analysis. There may be properties that you can obviously state what the Highest and Best Use is without a detailed analysis. Examples may be a small rural acreage home site, agricultural land, improved residential subdivision, some commercial properties, etc. In stating the Highest and Best Use of the Whole Tract, Before and After, make sure that you include each “Larger Parcel.”

Larger Parcel

Size of the Larger Parcel(s) (If different from the Whole Tract)	
Highest and Best Use of the Larger Parcel(s)	

Similar to the Highest and Best Use box, you may be able to complete this box prior to completing the appraisal report. But, if you have a multi-use tract of land, you will probably have to analyze the property before completing this or the Highest and Best Use box.

The concept of the “Larger Parcel” is perhaps somewhat unique to the field of condemnation appraisals. As defined in *The Dictionary of Real Estate Appraisal*, 7th Edition:

In governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use.⁹

⁹ *The Dictionary of Real Estate Appraisal*, 7th Edition, Chicago: Appraisal Institute, 2022, Page 105

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Determining the larger parcel is vital because the appraiser cannot determine the highest and best use of a property until a conclusion as to the larger parcel is reached. While the question of contiguity relates to engineering and ownership being a legal matter, the ultimate determination of the larger parcel must be made by the appraiser. As stated in the *Uniform Appraisal Standards for Federal Land Acquisitions* – 1.4.6.:

“Essential to the appraiser’s analysis of highest and best use is the determination of the larger parcel. These Standards define the larger parcel as that tract, or those tracts, of land that possess a unity of ownership and have the same, or an integrated, highest and best use. Elements to be considered in determining the larger parcel are contiguity (or proximity) as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use.

The appraiser must make a larger parcel determination in every appraisal developed under these Standards. It is not uncommon for an appraiser’s conclusion regarding the larger parcel to be different from the specific parcel the client agency identified to be appraised, as the appraiser cannot determine the highest and best use without considerable investigation and analysis. In such instances, the appraiser shall inform the client agency of the determination of the larger parcel and the agency shall amend the appraisal assignment accordingly.”

In some instances, once you have determined the larger parcel, the valuation of the whole ownership is not required. **The determination of the larger parcel establishes the boundaries of the property to be valued and also sets the limits in estimating any severance damage or benefits to the remainder.** That is not to say that you may have an acquisition that affects more than one larger parcel within the total property or that you may not have to testify in an eminent domain trial as to the total ownership. In determining the larger parcel, you may also eliminate the application of the “*taking off the back*” theory.

Unit Values

Unit Value of the Land (Before)	
Unit Value of the Land and Improvements (Before)	
Unit Value of the Land (After)	
Unit Value of the Land and Improvements (After)	

This particular section cannot be completed until you have finished the appraisal report.

- (1) The unit value of the land before would be per acre, per square foot, lot, per front foot, etc. value that you adopted in the report. In situations where you have more than one larger parcel and different unit values for each, enter the separate values with the noted larger parcel. Example:
Larger Parcel A: \$2,500/Ac.; Larger Parcel B: \$5,000 per acre
- (2) The unit value of the land and improvements before should be based on the value that you adopted either from the Sales Comparison Approach, Cost Approach, or Income Approach. Examples of such entries may be as follows:
 - (a) Before Value \$50,000 for a 1 Ac. lot with a 1,500 SF Residence and sheds:
 $\$50,000/1,500 = \$33.33/\text{SF}$
 - (b) Before Value \$50,000 for a 1 Ac. lot with a 1,500 SF Residence, sheds, and additional 20 Ac. of land valued at \$20,000: $\$33.33/\text{SF}$ (not including additional land), or $\$46.67/\text{SF}$ (includes additional land)
- (3) The unit value of the land after may be same as in the before or maybe less, depending on whether you considered any loss in value to the remaining land. You may also have multiple tracts remaining. As such, you may have different unit values for each. List each remainder with its corresponding unit value.
- (4) Calculation of the unit value of land and improvements after is the same process as in “2”. If there are no improvements remaining, insert “N/A”.

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Improvement Description

Improvements:	(Briefly describe the improvements, such as, single family residence, shed, barn, etc.) (List any personal property not included in the appraisal report.)

This box does not require a detailed description or analysis, but you need to list all the improvements on the property, even if not affected. For example:

Improvements include a 1-story frame residence (1,500 SF+/-), a 1,200 SF+/- hay barn, a 300 SF+/- metal storage shed, and a 12 x 60 Cavalier MH (Personal Property).

Before and After Value and Distribution

Total Before Value:	
Total After Value:	
Just Compensation:	

Allocation of Compensation for All interest: (List all interest such as Q interest, Temporary Easements, Warranty Deeds, etc.)				
Parcel No.	Land	Improvements	Damages	Total

- (1) The Before Value, After Value, and Due Compensation cannot be completed until the completion of the report. The values inserted in this section are based upon the approach to value that you adopted for the before and after.
- (2) The allocation of compensation should be the same as indicated in the report on the distribution page. The total of all the interests should equal the "Due Compensation" shown in "1". You must list each interest separately—"W", "T" and "Q". The compensation for the X-Deed is not shown in this section.

Dates

Effective Date of the Appraisal:	
Date of Report:	

The dates shown in this section should be automatically entered as previously discussed. However, make sure the dates are entered correctly. Some appraisers show a date differently within the same report.

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SITE DESCRIPTION

The appraisal assignment may involve the valuation of land only or land plus improvements. Land can be either raw or improved. **Raw land is land on which no improvements have been made. A site is land that is improved and ready to be used for a specific purpose.** In either situation, you must provide a detailed description and analysis of the land from which the highest and best use determination can be made. The description and analysis of the land/site will help support and explain any adjustments that are made to the comparable sales.

Site Description — Before

An analysis of the subject site is particularly important in estimating its highest and best use and for separate valuation from the improvements. The following is a discussion of the subject site in the Before Condition.

Information, regarding the total ownership, has been obtained by the appraiser from current county records, MDOT acquisition map and other reliable sources, including a physical inspection of the site. (A survey and/or metes and bounds description of the total subject property has not been provided to the appraiser)

There may be instances where you are provided with the Abstract of Title. As such, you may actually have a metes and bounds legal description, lot and block description, or a rectangular survey system description or a plat of the property. If so, you may wish to state this in this section of the report as well as any discrepancies in the Certificate of Title and MDOT's appraisal map and/or tax records.

Additionally, the title report may only cover the area or section where the acquisition is within. Hence, the appraiser should check the adjoining sections for other property within the same ownership, contiguous, and continuity of use. If there is additional property, the "Whole Property" should be discussed and considered when determining the "Larger Parcel." Although a change on the ROW maps may not be necessary, it is needed to properly evaluate the property being appraised. The maps might show only 20 acres more or less whereas the total property may actually be 200 acres or more. For proper adjustments to be made and proper sales to be considered the whole property should be reflected in the appraisal report.

Site Description-Before

In describing and analyzing the site/land, there are certain legal and physical characteristics that need to be discussed. In developing this format, the committee concluded certain items need to be discussed and analyzed. Therefore, a "list" was developed and presented on this page. As such, the novice or beginning appraiser would have the ability to adequately describe the property. The Appraisal Report for Land and the Appraisal Report for Improved Property, in the opinion of this writer, could be considered what was formally known as a "Summary" report. **Refer to USPAP AO-38 Page 115 which provides a chart that shows the difference in an "Appraisal Report" and a "Restricted Appraisal Report".** As explained, "state" is used when minimal presentation of information is needed, and "summarize" applies to expansion of the information presented. A short-fall that you may have on this page is assuming a 1-line statement is adequate in describing the necessary information listed. By listing each item of information needed in the description and analysis of the site, the committee realized that some may think that limited information is needed and that he/she would be "confined" to the area allowed for each item. This is not the case. Following will be a discussion of each item as to what you may wish to consider in using to describe the site as well as some "dos and don'ts." It is important to understand that the comments or description in this section affects the adjustments that you make.

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Present Use of Site:			
Legal Description of the Total Ownership:			
Location:			
Dimensions/Area/Shape:			
Frontage/Access:			
Topography:			
Flood Plain and Drainage Data:			
Use Restrictions:			
Site Improvements:			
Off-Site Public Improvements:			
Adjacent Land Uses:			
Easements/Encumbrances:			
Utilities:			
Utility Service	Supplier	Utility Service	Supplier
Electricity		Sewer	
Gas		Water	
Garbage Collection		Telephone	
Comments:	Include additional narrative, as needed.		

Present Use: This field has been added. A very simple statement may be all that is needed such as “Residential”, “Commercial” or “Agriculture”

Legal Description: The legal description is of the total ownership, not just the area to be acquired. The legal description for the total property may be found in the Abstract of Title; you may be able to distinguish the total ownership on the Appraisal Map; or you may refer to the land rolls in the tax office or tax maps. An example may be as follows:

The subject property is described as being a 40 Acre+/- tract lying in the SW1/4 of the SW1/4 of Section 1, Township 1 North, Range 1 East, Hinds County, Mississippi: or,

The subject property is shown on the Appraisal Map as being a 40 Acre+/- tract of land lying in the SW1/4 of the SW1/4 and the NW1/4 of the NW1/4 of Section 1, Township 1 North, Range 1 East, Hinds County, Mississippi.

Location: The location description is different from the legal description in that you should provide the physical **location of the property**. Consider the difference in the two following examples:

200 County Road 1; or The subject property is located along the west side of County Road 1 approximately ½ mile north of Highway 1. The physical address is 200 County Road 1.

Which of the two examples provides the best description of the location of the property?

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Dimensions/Area/Shape: This is perhaps your first opportunity to really describe the property being appraised. In doing so, you should in words paint a picture of the property that the reader can visually see. Not only should you describe the size and shape of the property, but you should provide analysis as to how the size and shape affects the property value. The size and shape may affect the use of the property. Additionally, you may at this point want to discuss any corner influence as being positive or negative. Example of do and “don’t:”

Don’t: 0.35 Ac.+/-, triangular in shape; 150’ x 200’ x 250’.

Do: The subject property is a 0.35 Ac.+/- triangular shaped parcel being approximately 200 feet wide on the south (front), approximately 150 feet deep along the east property line, and approximately 250 feet deep along the northwest property line. The size of the property is typical of residential lots in this area, and it has adequate frontage and depth for residential use.

Do: The subject property is a 0.57 Ac.+/- triangular shaped parcel being approximately 500 feet wide on the south (front), approximately 100 feet deep along the east property line, and approximately 592 feet deep along the northwest property line. Although the property is typical in size to other lots in the area and has adequate frontage, the depth and shape may restrict it from being developed as a separate lot.

Frontage/Access: Access is the means of physical entrance into a property. Accessibility indicates ease of entrance into a property. Frontage is the measurement of footage that a site abuts a street, stream, railroad, or other facility. A property may have substantial frontage but limited or no access. A property may not have any frontage, but access via an easement. Median strips, turning-restrictions, and one-way streets may restrict access.

Don’t: 200 feet of frontage; access from highway

Do: The subject property has approximately 200 LF of frontage along the north line of Highway 1. Highway 1 is a two-lane paved facility with open ditch drainage. Access to the property is via an asphalt paved driveway located in the southwest corner of the property.

Do: The subject property does not have any road frontage. Access to the property is via a 20-foot wide easement across the abutting property to the south. The easement provides ingress and egress from Highway 1 to the property.

Do: The subject has approximately 200 LF of frontage along the south line of Highway 1. Highway 1 is a two-lane paved facility with open ditch drainage. Access is not restricted along the highway other than by permit, but the property slopes severely away from the road which may restrict access somewhat or would entail substantial fill dirt in order to construct a drive.

Topography: Topography not only relates to the contour of the land, but also to drainage, soil conditions, view, and overall use of the land. Topographic maps can provide you with land elevations or contour lines as well as open and wooded land, roads, rivers, streams, transmission lines, etc. You can find several sites on the internet from which you can download topographic maps. Not only is the contour of the land important, but soil types should also be studied. Soils can have an effect on the capability of land being developed. A good source for various soil types throughout Mississippi can be found on <https://websoilsurvey.nrcs.usda.gov/app/>. You can also usually obtain one from the local Soil Conservation Service office. A study of the soils will indicate the ability of the soil to percolate (downward movement of water through the soil) and the permeability (rate water moves through the soil). Also, the manual has several tables that indicate the best uses for certain soils and restrictions for certain soils. View is what is seen from a property. A property with a rolling landscape may offer scenic views of lakes, rivers, etc.

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Don't: Fairly level

Do: The topography of the subject property is considered to be level flat lands to gently rolling hills. Primary soils are Loring, Providence, and Grenada. These are nearly level to rolling, moderately well drained silty soils that have a fragipan. This mapping unit makes up approximately 24 percent of the county. These soils appear to be more suitable for agricultural and recreational use; urban use is considered to be fair. The Loring soils consist of moderately well drained soils that typically have slopes from 2 to 17 percent. Percolation in the Loring soils is severe. Providence soils consist of moderately well drained soils that typically have slopes from 2 to 15 percent. Percolation in the Providence series is also severe. The Grenada soils consist of moderately well drained soils that have slopes from 0 to 5 percent. Percolation for these soils is also severe. There is no indication of flooding frequency in any of these soils.

Floodplain and Drainage: Flood maps have previously been discussed. As discussed, it is that area that is subject to flooding unless artificially protected. Drainage relates to how water is removed from the property either naturally or by a man-made system. Soils also have an effect on how fast or slow water is removed from property.

- a. **Excessively drained:** Water removed from soil very rapidly.
- b. **Somewhat excessively drained:** Water is removed from the soil rapidly.
- c. **Well drained:** Water is removed from the soil readily, but not rapidly. It is usually available to plants throughout the growing season.
- d. **Moderately well drained:** Water is removed somewhat slowly during some periods. These soils are wet for only a short time during the growing season, but periodically long enough to affect crops.
- e. **Somewhat poorly drained:** Water is removed slowly enough so that the soil is wet for significant periods during the growing season. Wetness restricts the growth of crops unless they are artificially drained.
- f. **Poorly drained:** Water is removed so slowly that the soil is saturated periodically during the growing season and remains wet for long periods. Free water is commonly at or near the top for long enough during the growing season that most crops cannot be grown unless artificially drained.
- g. **Very poorly drained:** Water is removed from the soil so slowly that free water remains at or on the surface during most of the growing season. Very poorly drained soils are commonly level or depressed and are frequently ponded. Therefore, it is not only important to know the natural ditches or man-made drainage ditches that drain the property, but you should also know which soils will also remove water.

If you have certain soil classifications that are indicated to be poorly drained or very poorly drained, you may have an indication of wetlands. Typically, wetlands have three characteristics: Soils, Hydrology, and Vegetation. Development in areas that are classified as wetlands may be restricted and require permits. Not all areas that appear to be wetlands will fall into this category though. If you have a question whether there are any wetlands on the property being appraised, you should check with the Project Engineer. Typically, only the wetlands within the proposed right of way will be delineated.

A good resource to utilize is the **US Fish and Wildlife Service Wetlands Mapper**. This service will show classified wetlands with a description.

Use Restrictions: The use of the property may not only be restricted by physical

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characteristics, but there may be legal or deed restrictions on the property. Typically, legal restrictions will be in the form of zoning ordinances. Zoning is the right of the government to regulate the use of private property. Through this regulation, districts with uniform restrictions are established. In the valuation of vacant land, zoning is a primary test as to highest and best use. Most counties in Mississippi do not have zoning regulations, but there are a few that do. If your project is in an urban area, you definitely will need to check the zoning regulations. Typically, a zone will be general in nature. You need to verify the zoning classification within that general zone area. Zoning will regulate or control such items as building height, density, parking, setbacks, signage, etc. Not only do you need to know the zoning regulations, but if there are any deed restrictions or protective or restrictive covenants. A restrictive covenant restricts the use of real estate and is binding on all subsequent purchasers. It may involve control of lot size, setback, placement of buildings, number and size of improvements, architecture, cost of improvements, or use. Deed restrictions are similar but may not be as explicit. A deed restriction may state for a certain use only, but may not specify the building size, placement of building, etc., or it may have restrictions due to an easement.

Don't: Property is zoned residential.

Do: The subject property is zoned residential, R-1. R-1 zoning requires a minimum lot size of 12,000 SF, a front yard set-back of 30 feet, a rear yard set-back of 50 feet if abutting other residential property, and side-yards of 20 feet. The building height is restricted to 25 feet. No livestock can be maintained on the property.

Do: The subject property is located in XYZ subdivision. This subdivision is zoned residential, R-1, which requires a minimum lot size of 12,000 SF. In addition to the R-1 set-back requirements, the subdivision restrictions require a structure of not less than 1,800 SF of living area, fencing must be of wood or brick and no higher than 6 feet. Only one auxiliary or storage building constructed of the same material as the residence per lot is allowed.

Off-Site Improvements: Off-site improvements are those typically associated with being located outside the boundary lines of the property. These may include roads, utilities such as water, sewer, electricity, drainage ditches, etc.

Adjacent Land Use: Abutting properties can often have an effect on the highest and best use and ultimately the value of the property being appraised. If you are appraising a vacant tract of land and it abuts properties that are being developed either for residential, commercial, or industrial, then the highest and best use would more than likely be one of those uses. As such, the comparable sales that you use should relate to that type of development. As in many instances in the rural parts of the state, the appraised property may abut several different uses. You should be aware of any abutting property that may be a nuisance such as an industrial plant, refinery, railroad, airport, etc. that may have an effect on the value of the property.

Don't: The property abuts residential property and agricultural property.

Do: The subject property is abutted on both sides by single family residential properties and on the rear by timberland. Across Highway 1 from the property is open pastureland. Approximately ¼ mile to the west is a small "mom and pop" country store and a church.

Easements: An easement conveys the right to perform a certain act on a particular parcel of land without owning the underlying fee. Easements are classified as being an easement in gross or an easement appurtenant. An easement in gross is not attached to any particular estate; does not run with the land nor is it transferred through the conveyance of title. It is usually for the benefit of an individual or entity such as a utility company or transportation agency. An easement appurtenant is used in conjunction with other property owned in fee. It runs with the land for the benefit of the dominant estate and continues to burden the

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servient estate, although such an estate may be conveyed to new owners. The dominant estate is the land served by the easement, and the servient estate is the land burdened by the easement. Easements are defined as being subsurface, surface, or overhead. You are valuing the property in its existing condition, which may be subject to various easements. It is your responsibility to determine if there are any existing easements on the property and what affect, if any, they may have on the value of the property.

Example: The appraised property is encumbered by an underground high pressure gas line, an overhead transmission line, and an access or driveway easement. The gas line easement crosses the property in a diagonal direction entering from the southwest corner and exiting at the northeast corner. It is 40 foot in width and has two 24-inch lines installed at a depth of 6 feet. The 500 KV overhead transmission line crosses basically through the center of the property and is 150 foot wide. There are three tower sites on the property with one being on the west property line, one basically in the center of the property, and one along the east property line. The access easement is 20-foot in width. It enters the property at the southeast corner and runs parallel with the eastern property line for the full depth of the property. The easement provides access to the abutting property on the rear. No buildings are allowed within any of the easement areas. There is a 50 foot set-back requirement for both the underground and overhead easement. Please refer to the plat in the Addenda Section for the location of these easements.

Utilities: Having utilities such as water, sewer, and electricity available can affect the highest and best use of property. Not only availability, but the reliability and costs are important. There may be special assessments on properties to establish water or sewer to the area. Utility companies may charge additional fees for certain businesses. More and more counties are increasing their requirements for on-site wastewater treatment when community water is not available and, in some cases, even with community water. You should meet with the local Health Department Environmentalist to find out the requirements within that county.

As suggested earlier, the appraiser may wish to discuss all these items in a more narrative form versus each individually. If so, you may wish to continue starting a new paragraph. The following is a suggestion as to how it may look.

Based on the legal descriptions provided in the Abstract of Title, the subject property is a 40 Ac.+/- tract lying in the SE1/4 of the SE1/4 of Section 1, Township 1 North, Range 2 East, Hinds County, Mississippi. The property is located along the west side of County Road 1 approximately ½ mile north of Highway 1. The physical address is 200 County Road 1. The property has approximately 1,000 LF of frontage along the west line of County Road 1. County Road 1 is a county maintained hard surfaced road with open ditch drainage. Access to the property is from County Road 1 via a gravel drive at the southeast corner of the property. The property is rectangular in shape, being approximately 1,000 feet wide on the front and rear and approximately 1,742 feet deep along the north and south lines. The property is fenced with 4-strand barb wire on all four sides and has a 12-foot metal gate at the entrance to the drive. The topography of the property is fairly level to gently rolling. Soils are of the XYZ class, which are suitable for agricultural, timberland, and recreational usage. Use for residential purposes is considered to be fair due to the slow percolation of the soils. It is evident in the area though that these soils will allow for residential use. There is a small drainage ditch that runs along the north property line from an east to west direction or from front to rear. This drainage ditch eventually drains into a small pond located at the rear of the property. Based on Flood Map Number 111 published by the Federal Emergency Management Agency with an effective date of May 1, 1980, the property is located in Zone X, which is outside the 100-year floodplain.

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The property is located in the rural area of Hinds County and is not subject to any zoning regulations. There are also no known deed restrictions on the property. An overhead transmission line crosses the southwest corner of the property, but there are no tower sites located within the property lines. The property is abutted on the north by an improved residential site and open pasture, on the rear by timberland, and on the south by a convenience store and wooded property. Community water, electricity, and telephone service is provided to the subject. Private on-site wastewater systems are required. According to Mr. John Appraiser, Hinds County Health Department's Environmentalist, typically 3 acres are required for a septic system and field line for soils similar to what is found here. Smaller lots, perhaps 1 acre in size, would require a treatment plant or some type of spray system. To meet conventional financing requirements, any system has to be approved by the health department.

As stated previously, although the above is acceptable, it may be easier for the reader / reviewer to follow and address the line items.

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Site Description-Acquisition Area

Site Description — Area of Acquisition	
Location:	1
Dimensions/Area/Shape:	2
Site Improvements:	3
Rights to be Acquired for Each Parcel:	4
Comments:	<i>Include additional narrative, as needed.</i>
5	

This description and analysis should follow some of the same thoughts as presented in the site description of the before. You are trying to present in words a visual of the area to be acquired. The committee had the same thought process as in the before in that there are certain items that need to be discussed, but you should not feel limited to the indicated areas or listed items. The items listed above are self-explanatory and do not need to be explained to a great extent in this guide. However, some explanation of each will be provided as well as giving the same information in a narrative presentation.

- (1) Location:** *The location of the acquisition can be a very simple statement as to being on the front, rear, side, middle, or a certain area of the property.*
Example: The proposed acquisition is located along the front of the property running in a south to north direction
- (2) Dimensions/Area/Shape:** *First, you should check the deed to make sure the legal description of the acquisition closes. From the deed you can obtain the size and dimensions. If you use "Deed Plotter", you can confirm the acreage, dimensions, and shape as provided from the deed and Appraisal Map.*
Example: The area to be acquired is rectangular in shape measuring 50 feet deep on the north and south, and running parallel with the eastern property line for 1,000 feet, or the area to be acquired is a rectangular shaped 50-foot wide strip running the entire length of the property for 1,742 feet, or, the area to be acquired is a rectangular strip 50 feet wide and 1,742 feet in length. The total area to be acquired is 1.15 Ac.+/- Also, a temporary easement containing 0.23 Ac.+/- (20' x 50') is required for the reconnection of the drive.
- (3) Site Improvements:** *Describe any site improvements that are in the acquisition such as landscaping, driveways/entrance columns, walks, fencing, water and sewer lines, lighting, swimming pools, etc.*
- (4) Rights to be Acquired:** *Typically, the rights to be acquired will be in fee, but you may have a temporary easement, permanent easement, or leased fee/leasehold interest.*
Example: The area to be acquired as right of way is to be acquired in fee. A temporary easement will be acquired for the reconnection of the drive.

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This information can be presented in a narrative such as the following:

The proposed acquisition is a 1.15 Ac.+/- strip across the front of the subject property. The area is 50 foot deep and runs the entire width of the frontage for 1,000 feet. The 1.15 Ac.+/- comprises approximately 5 percent of the total property. The only improvements located within the acquisition area are the 4-strand bard wire fencing along the front and the metal gate at the driveway entrance. The gate is considered to be personal property. The 1.15 Ac.+/- is to be acquired in fee. A temporary easement of 0.23 Ac.+/- measuring 20 feet by 50 feet is located at the driveway entrance and is required for the reconnection of the drive.

Site Description-After

Site Description — After	
Dimensions/Area/Shape:	1
Frontage/Access:	2
Topography:	3
Flood Plain and Drainage Data:	4
Use Restrictions:	5
Off-Site Public Improvements:	6
Easements:	7
Utilities:	8
Comments:	Include additional narrative, as needed.
9	

As you can see, there is not a significant difference in the site description after. You must remember that you are doing a before and after. **The before no longer exists.** The after requires a separate description, analysis, and valuation. In some instances, this may be relatively simple when there is not a major change in the remainder. Other times though, the remainder requires as much or perhaps more description and analysis. In order to present the reader with what may be expected in the valuation of the remainder, you should describe and analyze the effects of the acquisition on the remainder. At this point, each of the items will not be discussed individually since they were explained in the before. Following though will be suggested ways that you may wish to discuss these in a narrative form. Example 1 will be a minor acquisition with no damage or cost to cure damage. Example 2 will be a little more complex, having an uneconomic remnant, cost to cure damage, and loss of utility.

Example 1:

The remainder will consist of a 38.85 Ac.+/- rectangular tract of land. It will retain the same frontage and access that it had in the before. The depth has been reduced from 1,742 feet to 1,692 feet, which does not appear to have an effect on the present use of the property. All utilities will remain to the property as in the before. The temporary easement will revert to the owner at the end of construction. The only element of damage recognized is the cost to cure 1,000 LF of 4-strand barb wire fencing along the front of the property.

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Example 2:

The remainder will consist of a 38 Ac.+/- tract of land in two separate tracts. Lying north of the proposed right of way will be a 37.77 Ac.+/- . This tract will be rectangular in shape, being approximately 1,500 feet deep and approximately 1,100 feet wide. Access to the new facility will not be permitted. As stated in the before, the property had access from a county road on the east plus a county road that dead-ends at the northwest corner. The only means of access to this remainder will be via the county road at the northwest corner. Although the property is vacant, the change in access may affect the overall utility of the property. It is evident from the market that properties with good frontage and access are superior to those with limited or restricted access. Any loss in utility and/or value will be discussed in the Highest and Best Use analysis of the remainder and the valuation segment of the report. The cost to cure fencing will be considered along the proposed right of way for this remainder. Remaining south of the proposed right of way will be a very narrow strip of land containing 0.23 Ac.+/- . This strip of land is approximately 10 feet deep and 1,000 feet wide. It is the area remaining between the county road and the proposed right of way. As stated earlier, at least 3 acres is required for an on-site wastewater system. The size and shape of this remainder will not permit many uses. Due to the size and shape of the remainder, it is of little value or utility to the owner and is considered to be an uneconomic remnant. It would offer little in plottage value to either abutting owner in that it is only a long narrow strip and does not appear that it would benefit either party. Therefore, the marketability of this remainder is considered to be severely affected, and the value is considered to be only nominal at best.

IMPROVEMENT DESCRIPTION

General

Whether you are describing residential, commercial, industrial, or special use properties, the description of the type, quality, and condition of the building(s) are important to the appraisal assignment. The description and analysis should be based upon your personal inspection, from plans, or both. A thorough inspection, description, and analysis of the improvement(s) will identify the condition of the building, assist in selecting comparable sales, and aide in estimating cost new and depreciation.

We all have our own way of inspecting and measuring buildings. Some may start on the outside with measurements and description while others may start on the inside with a floor plan and description. Some states are now requiring appraisers to use the *American National Standard for Single-Family Residential Buildings* (ANSI Z765) method for calculating areas. The standards are for residential. The Building Owners and Managers Association International have adopted standards for measuring floor areas in office buildings. It is titled *Standard Method of Measuring Floor Area in Office Buildings*, ANSI/BOMA Z65.1-2024. You can order their standards from their web site (www.nahbrc.org and www.boma.org). Please note there are search engines that can assist you in these methods of calculating areas which will also lead you to web sites.

In describing an improvement, the following terms and definitions may be of assistance:

- (1) **Attached Single-Family Residence:** has its own roof and foundation, is separated from other houses by dividing (party) walls that extend from roof to foundation and does not share utility services with adjoining houses. Examples are townhouses, roughhouses, duplexes, etc.
- (2) **Detached Single-Family Residence:** has open space on all sides.

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- (3) **Finished Area:** enclosed area in a house that is suitable for year-round use.
- (4) **Garage:** structure intended for storage of automobiles and other vehicles.
- (5) **Grade:** ground level at the perimeter of the exterior finished surface of a residence.
- (6) **Level:** areas of the house that are vertically within 2 feet of the same horizontal plane.
- (7) **Square Footage:** area of the house that is measured and calculated
- (8) **Unfinished Area:** sections that do not meet the criteria of finished area.

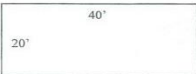
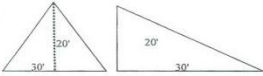
In measuring a residence, the measurements should be based on using **exterior dimensions and rounded to the nearest inch or tenth of a foot.** The final square footage is reported to the nearest whole square foot. The following suggestions are taken from the ANSI standards:

- (1) **Detached Single-Family Finished Square Footage:** The finished square footage of each level is the sum of the finished areas on that level at floor level to the exterior finished surface of the outside walls.
- (2) **Attached Single-Family Finished Square Footage:** The finished square footage of each level is the sum of the finished areas on that level at floor level to the exterior finished surface of the outside wall or from the centerlines between houses, where appropriate.
- (3) **Finished Area Adjacent to Unfinished Areas:** The finished square footage is calculated by measuring the exterior edge or unfinished surface of any interior partition between the areas.
- (4) **Openings to the Floor Below:** Openings to the floor below cannot be included in the square footage calculation. However, the area of both stair treads and landings proceeding to the floor below is included in the finished area of the floor from which the stairs descend, not to exceed the area of the opening in the floor.
- (5) **Above- and Below-Grade Finished Areas:** The above-grade finished square footage of a house is the sum of the finished areas on levels that are entirely above grade. The below-grade finished square footage of a house is the sum of the finished areas on levels that are wholly or partly below grade.
- (6) **Ceiling Height Requirements:** To be included in the finished square footage calculations, finished areas must have a ceiling height of at least 7 feet except under beams, ducts, and other obstructions where the height may be 6 feet 4 inches; under stairs where there is no specified height requirement; or where the ceiling is sloped. If a room's ceiling is sloped, at least $\frac{1}{2}$ of the finished square footage in that room must have a vertical ceiling height of 7 feet; no portion of the finished area that has a height of less than 5 feet may be included in finished square footage.
- (7) **Finished Areas Connected to the House:** Finished areas that are connected to the main body of the house by other finished areas such as hallways or stairways are included in the finished square footage of the floor that is at the same level. Finished areas that are not connected to the house in such a manner cannot be included in the finished square footage of any level.
- (8) **Garages, Unfinished Areas, and Protrusions:** Garages and unfinished areas cannot be included in the calculation of finished square footage. Chimneys, windows, and other finished areas that protrude beyond the exterior finished surface of the outside walls and do not have a floor on the same level cannot be included in the calculation of square footage.

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Examples of calculating floor areas (can also be used in calculation of land area).

1. SQUARE		AREA = BASE X HEIGHT Example: AREA = 20' X 20' = 400 SQ. FT.
2. RECTANGLE		AREA = BASE X HEIGHT Example: Area = 20' x 40' = 800 SQ. FT.
3. TRAPEZOID		AREA = $\frac{\text{HEIGHT} \times \text{SUM OF 2 BASES}}{2}$ Example: Area = $\frac{10' \times (20' + 40')}{2} = 300 \text{ sq. ft.}$
4. TRIANGLE		AREA = $\frac{\text{HEIGHT} \times \text{BASE}}{2}$ Example: AREA = $\frac{20' \times 30'}{2} = 300 \text{ sq. ft.}$
5. REGULAR POLYGON		AREA = CONSTANT X SIDE SQUARED Example: Area (6 sides) = 2.5881 x (8'x8') = 166 sq. ft. Area (5 sides) = 1.75205 x side squared Area (7 sides) = 3.6339 x side squared Area (8 sides) = 4.8284 x side squared Area (9 sided) = 6.181 x side squared Area (10 sides) = 7.6942 x side squared Area (11 sides) = 9.3656 x side squared Area(12 sides) = 11.1962 x side squared
6. CIRCLE		AREA = PI X RADIUS SQUARED Example: Area = 3.14 x (10' x 10') = 314 sq. ft.

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You may use the Apex sketch program that will draw and calculate most areas for you (land and improvements.) Some of you may also be using “Deed Plotter” to check the legal descriptions.

Improvement Description and Analysis

The Improvement Description page was developed by committee with the same similar thoughts as those that went into the Land Description page. While the appraiser may feel more comfortable providing a narrative description and analysis of the improvement, the intent of listing items that needed to be described was to assist the appraiser and help assure that the improvement is properly described. The “draw-back” to any list is that you may feel somewhat restricted or that you do not need to provide as much information. Being repetitive, DO NOT BE AFRAID TO EXPAND THE TABLES AND/OR LISTS OR BE AFRAID TO PROVIDE TOO MUCH DETAIL.

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The following summary of basic construction details is based on the (inspection and/or plans). The size of improvement is .

The first part of this page allows for a very general description of the improvement(s) and could be discussed in a narrative with more details on the following section – Basic Construction Details.

What are the construction details based upon and what type of improvement are you describing – residence, commercial, industrial, etc. You don't have to limit yourself to one improvement; however, this is usually the primary improvement being considered.

The size of the primary improvement should be stated. Some of you may not be clear on this. It is recommended that only one of the options- heated area or net rentable area-be chosen.

Determining the actual age of the improvement may be difficult, and some may wonder why it is important. This will be discussed in more detail in the Cost Approach, but you must remember that you should be able to explain any difference between actual age and effective age. If you cannot determine the age from the owner, there are some options. Checking with the local power company's records to see when electricity was provided to the site may be an option. The tax office may also have records indicating when the improvement was first assessed. Another useful option is to lift the lid on the toilet tank. A date is usually stamped on the lid. If there have been no renovations, this may give you a clue as to the age. Another is through experience in being able to recognize the design and style of homes and associate that with the time period that they were constructed.

Typically, the improvement(s) are stated to be in "excellent, average, good, fair, or poor" condition. Although not asked for at this time, you should be able to explain your "ranking" of the condition of the improvement. If you make the statement "average"—average as compared to what?

In most cases, your summary will be based on a physical inspection. There may be times though that you will have the house plans. If so, you should check to see if the plans match your measurements and description. Sometimes, they may not.

The following are examples that may be useful in the general description of the improvement(s):

The subject is improved with a 1-story brick veneer residence and supporting site improvements. The residence contains 1,472 SF+/- of heated and cooled area. The improvements were constructed in 1995 and are considered to be in average condition.

The appraised structure is a 32.2 by 45.3 foot 1-story detached single-family house with 1,472 SF+/- heated area above-grade finish. In addition, there is an attached 250 SF+/- open front porch and 144 SF+/- concrete rear patio. Other improvements include a 400 SF+/- detached garage and a 120 SF+/- metal storage shed. Based on the inspection, the improvement is considered to be in average condition. The property owner indicated that the house was constructed in 1995.

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Basic Construction Details

Basic Construction Details
Design/Style:
Foundation:
Exterior Walls:
Roof:
Framing, Sheathing and Decking:
Windows:
Exterior Doors:
Interior Floors:
Interior Walls:
Ceiling:
Lighting:
Kitchen Appliances:
Room Count (Total / Bedrooms / Bathrooms):
Electrical:
Plumbing:
Heating and Cooling:
Additional Features:
Parking and Drives:
Site Improvements:
Actual Age:
Items of Deferred Maintenance:
Improvements in the Acquisition:
Improvements Remaining:

Design/Style: Describing an improvement requires more than calculating the square footage and stating the number of rooms and general construction. **The architectural style and functional utility should be described.**

Architectural style is the character of the building's form and ornamentation. Structures will typically fall under two styles-formal architecture and vernacular architecture. Formal architecture refers to the art and science of designing and building structures that meet the aesthetic and functional criteria of those trained in architectural history. Vernacular architecture emphasizes function over form. Vernacular architecture reflects custom and responds to the environment and contemporary lifestyle. Most older homes would perhaps fall into the category of formal architecture, while today most of the new homes being built may fall into the category of vernacular architecture. But even new homes today may take on some of the characteristics of the older designed formal architecture. Architectural design of homes may include such styles as Colonial American, English, French, or Spanish. Older homes and even newer homes are difficult to classify. Your early twentieth century homes would probably

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be classified as an American Bungalow or rambler. These are typically 1-story wood frame structures with an open porch. After World War II, probably late 50's and early 60's, saw the construction of the American-California Ranch, a 1-story ground-hugging house with low pitched roof. New homes today may not have an actual classification and may be referred to as being "traditional".

Foundation: The foundation is normally referred to as the substructure, which is the area below grade and includes the foundation supports as footings, slabs, pilings, piers, and beams. It is what the superstructure (above grade) sits on and is supported by. The three forms of foundations that you will normally see are slab-on-ground, crawl space, or basements. If the house is on a slab, you should observe to see if the ground slopes away from the house. Dampness is the main problem with basements. Crawl space should typically allow 3-4 feet from the ground to the floor joists. Basements may be easier to inspect for possible problems, but a slab or crawl space may be somewhat concealed. You should look for possible structural problems such as settling or cracks in walls.

Exterior Walls: Most houses today are wood frame construction with an exterior wall finish that may be different. Some older homes may be solid brick or stone, and some newer homes may be steel frame construction. A house constructed in modern times with brick exterior walls is probably wood frame construction. The exterior walls are the finished layers. There are many types of exterior finishes including wood siding, aluminum siding, masonry veneer which include clay brick, concrete blocks, stucco or hardy plank. On some very older homes you may still find asbestos siding.

Roof: The roof must be constructed to support its own weight plus that of loads from snow, ice, and wind and also so that it will be a base for the roof finish material. While it may be difficult to observe the actual roof construction such as trusses, joists and rafters, or joists alone, you can observe the exterior roof covering and condition of the roof. You should look for any "sagging" in the roof structure. The most common roof types are:

Gable—triangular area formed the ends of a ridged roof

Gambrel—two-pitched roof style that has a steeper lower slope than upper slope Hip—rises by inclined planes from all four sides of the house

Flat—slopes only enough to provide water drainage and a pitch of not over 1 to 20

Shed—one continuous slope from front to rear

Mansard—two slopes on all four sides; lower slope very steep and upper slope usually not visible

Dormer—the projection built out from the slope of the roof; common types are the gable and shed dormers

There are many different materials used for roof coverings. These may include asphalt shingles, wood shingles, fiberglass shingles, clay tile, metal, slate, or built-up (normally on flat roofs). Look for signs of wear such as shrinkage, granular loss, cracking, curling, missing shingles, etc. You should inspect to see how many layers are presently there. Typically, on normal pitched homes, two layers of shingles can be applied. This can affect the depreciation amount that you allow for the roof (overlying new roof over existing versus tearing off existing layers and adding new).

Framing, Sheathing, and Decking: This is perhaps the most difficult area to inspect and describe. As discussed, most homes today are wood frame construction. Framing is the load-bearing skeleton of a building to which the exterior and interior wall finishes are attached. Typical construction types include platform construction, balloon construction, and plank and beam construction. Unless solid masonry walls, the exterior wall framing is usually 2 x 4 wood studs. Signs of problems with framing are exterior walls that bulge, unlevel windowsills, sticking windows, large cracks on the outside between the wall and chimney, sagging floors, or cracks that run at an angle from the upper corners of windows and doors.

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Sheathing braces the exterior walls. Wood sheathing, either plywood or boards is typically preferred. Other materials used are fiberboard or fabricated gypsum panels. The sheathing is then normally covered with sheathing paper or insulation panels or wrapping.

Decking or roof sheathing provides backing for the attachment of the roof material. The most common types are plywood, fiberboard or planks.

Windows: Windows are a major source of heat and cooling loss; therefore, their design and installation is important. You should note the type of window, the material, and any energy-saving features. The two most common styles are double-hung and casement. A double-hung window consists of two sashes that move up and down in a pair of channels. The casement window consists of one or more sashes hinged at the side like a door, swinging horizontally out or in, usually with aid of a crank. There are several materials used in the construction of the windows including wood and aluminum. Most windowpanes today are double-paned or insulated. Unless replaced, most older homes have single pane glass.

Doors: Doors can provide an indication as to the possibility of foundation problems, quality of construction, approximate age, and physical condition. There are several types of doors that you may find in a structure. You should inspect all the doors to see if they properly open and close. Following is a list of the types of doors that you may find during your inspection.

Batten Doors: Consists of boards that are nailed together. Use where appearance is not important.

Sliding Glass Doors: Contain at least one fixed pane plus one or more panes that slide in a wood or metal frame.

Flush Solid Core Doors: Made with smooth face panels glued to a core that is made of either a composition material, glued-together wood blocks, or glued-together wood pieces. Added strength obtained by using two layers of face board. Often used as exterior doors.

Flush Hollow Core Doors: Made with smooth flat face panels. Face panels must be 3 or more plies to give door strength. Light and used for interior doors.

Accordion Folding Doors: Made of wood slates connected with tape or cord forming flexible, drape-like doors. When folded, approximate width of the jam.

Stile and Rail Doors: Often referred to as French Doors, Sash Doors, or Louvered Doors. Consists of a framework of vertical boards (stiles) and horizontal boards (rails). What fills the space between the stiles and rails determines the name.

Steel Doors: Made of metal and most often used for exterior doors.

Storm Doors: Often hung outside the regular door. Usually made of lightweight metal or wood. Filled with glass or screens.

Exterior doors are usually solid. Hollow exterior doors are a sign of poor-quality construction.

Interior Floors: Typically, an improvement is either constructed on piers or a slab. If on piers, there is typically wood sub-flooring underneath the floor covering. If on a slab, there may be some type of underlayment to allow for cushioning and dampness. There are many types of floors covering such as carpet, brick, stone, terrazzo, ceramic/quarry tile, vinyl/asphalt tile, laminate, or concrete. Sagging and sloping floors can be caused by defective framing. Floors that have been exposed to water may warp and bulge upwards. You should note the condition of the floor coverings. There are traffic areas within a building that will cause the covering to deteriorate perhaps faster than other areas. Floor coverings have a different life expectancy

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than the main structure.

Interior Walls: Typically, in structures today you will find the interior walls to either be drywall / sheetrock, paneling, or wallpaper. In older structures, you may find the wall covering to be plaster or wood planks. Many bathrooms and kitchens may also have ceramic tile walls. Some walls may have a chair rail, which separates the lower portion of the wall from the upper portion. The two areas are usually different material, and the lower portion is referred to as the wainscot.

Ceilings: Here again, most modern homes will have a drywall / sheetrock ceiling. Older homes may have suspended ceiling tiles. You should observe the ceilings to note any possible roof problems such as stains indicating the roof leaking.

Lighting: The structure should be adequately lit. Most lighting is provided by incandescent bulbs or fluorescent tubes. Most lighting has been updated to LED lights (light emitting diode.) LED lights use 90% less electricity than incandescent lighting. Lighting can be encased or can lights. Make sure that the property owner understands that any lighting fixtures attached to the building will be considered in the value of the building. If the owner indicates that they wish to remove certain fixtures, they need to understand that they need to replace them with a comparable lighting fixture.

Kitchen Appliances: Most modern kitchens today have built-in kitchen appliances. Typically, what you will find will be a built-in range/oven with a vent hood, garbage disposal, and dishwasher. Refrigerators are typically considered to be personal property except maybe in mobile homes. There may be occasions though when you find refrigerators that are built-in and should not be removed. An item that can be removed without leaving a hole in the cabinet space or countertop such as a free-standing oven or dishwasher would normally be considered as personal property. Although not referred to as a “kitchen appliance”, you should note the cabinets and counter tops. Not only should there be adequate cabinet space, but the quality of the cabinets should be noted as well as the countertop covering.

Room Count: This entry has changed. Now you need to include the total number of rooms and bedrooms as well as baths. You may wish to note the size of the rooms, especially the bedrooms. In the more modern homes today you will probably find 2 or more bathrooms, and this can be a major selling point. Most older homes will perhaps have only 1 or 1.5 bathrooms. There is no universal accepted formula to establish the number of bathrooms to be considered adequate. For a 3-bedroom house, one full bath with tub/shower combination may be acceptable. A full- bathroom will consist of a toilet, lavatory, tub or tub/shower combination, or a separate shower. Many homes today have a primary bath which may have “his and her” lavatories. Floor coverings may vary from vinyl/asphalt tile to ceramic tile. Wall covering may also vary from drywall to ceramic tile. Often you will find ceramic tile wainscot with either drywall or wallpaper for the upper portion. Lavatories, tubs, and showers of today are mainly fiberglass. You may find free-standing tubs that are usually made of cast iron.

Electrical: Having enough electricity to operate all the appliances, lighting, and other systems within the house is important. Many older homes will have a 30-ampere or 60 ampere service. Today you will find that most homes have at least 100-ampere service. Larger homes with electric heat, air-conditioning and a large number of appliances may require 150 to 400-ampere service. While many older homes are wired for only 110-volt service, most new homes are served by a three-wire, 220 to 240-volt service. Fuses and circuit breakers are used to cut off the electricity automatically. A fuse is a piece of wire that will melt when more than the prescribed amount of electricity flows through it. Circuit breakers are automatic switches that turn off when excess electricity passes through them.

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Plumbing: Investigation of the plumbing may be a little difficult due to the fact that very little of the plumbing is visible. Perhaps the biggest difference between houses being built today and those built prior to World War I is the plumbing, although you will probably find that in those pre- WWI homes, the plumbing has been modernized. Piping material may be brass, galvanized steel, copper, or plastic. Plastic or PVC is the most common used today. Newer homes may have tankless hot water on demand instead of hot water heaters or both. Tankless hot water are more energy efficient than hot water heaters.

Heating and Cooling: Most heating systems use warm or hot air, hot water, steam, or electricity and are powered by fuel oil, natural gas, electricity, or coal. Due to the rising costs of fuel, the type, design, and functional utility of the heating system is important in the valuation of the improvement. It is not unusual today to find homes with central heating systems that have “zone” space heaters in each room or several rooms. The ideal heating system should supply that amount of heat which will keep the body heat loss in balance, prevent drafts, warm the floors and walls, and provide steady temperatures from room to room. Different types of heating and cooling systems are as follows:

There are several types of heating and cooling systems, each with its own advantages depending on your needs and the climate you live in. Here are some common ones:

Heating Systems

1. **Furnaces** – The most common heating system, often powered by gas, oil, or electricity. They work by blowing heated air through ducts.
2. **Boilers** – Use hot water or steam to heat a space through radiators or baseboard heaters.
3. **Heat Pumps** – Efficient for mild climates, these systems transfer heat between indoors and outdoors.
4. **Radiant Heating** – Installed under floors or in walls to provide even heat without forced air.
5. **Geothermal Heating** – Uses the stable temperature underground to provide heat efficiently.

Cooling Systems

1. **Central Air Conditioning** – Uses ducts to distribute cooled air throughout a home.
2. **Ductless Mini-Splits** – Ideal for homes without ductwork, they provide zoned cooling.
3. **Window or Portable AC Units** – Affordable and convenient for cooling single rooms.
4. **Evaporative Coolers** – Work well in dry climates by using water evaporation to cool air.
5. **Geothermal Cooling** – Just like geothermal heating, it utilizes underground temperatures to cool air efficiently.

Some systems, like heat pumps and geothermal setups, provide both heating and cooling.

You will also find that fireplaces are being used as a source of heat. Wood-burning inserts are common in many homes.

The most common type of air-conditioning system consists of an electrically powered compressor that compresses a coolant from gas into liquid outside the area being cooled. The type of system may vary from window units installed in a window or perhaps in a wall to ducted central air-conditioning systems.

Additional Features: Additional features may include a range of items such as an alarm system, sprinklers, intercom system, in-wall vacuum system, hot tub/spa, swimming pool, etc. The value of these items is often based on their contribution to the highest and best use of the

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property, or how much they add by their presence or detract by their absence.

Parking and Drives: With many older urban areas, parking may only be available on the street. Most properties today though will have a drive off the main roadway leading to a parking structure. You should note the material of the driveway such as gravel, crushed rock, asphalt or concrete.

Site Improvements: Site improvements can be categorized into two areas—"On Site and Off Site". In order for "land" to become a "site" which is ready for development, certain improvements have to be made or available. Off-site improvements are items typically outside the property lines such as streets, sidewalks, curbing, traffic signals, water and sewer mains. On site improvements may include grading, landscaping, paving, and utility hook-ups. On site improvements are subject to physical deterioration and functional obsolescence similar to a building or other structures.

Actual Age: Although this item will be discussed further in the Cost Approach, the actual age of a structure is defined in The Dictionary of Real Estate Appraisal, 7th Edition as follows:

"The number of years that have elapsed since construction of an improvement was completed; also called *historical* or *chronological age*."¹⁰

Knowing the actual age serves two purposes. First, it is the initial element in estimating effective age. Second, in the application of the Cost Approach, using the break-down method, the actual age is fundamental to the age-life analysis needed to estimate physical deterioration in long-lived and short-lived components of an improvement. It may be difficult to establish the actual age of an improvement, but you should attempt to do so. The current owner may know; information from the tax office may be available; the date power was supplied may also be obtainable; and in some cases, if no remodeling has occurred, checking the date on the underside of the lid of the toilet tank would be an indication.

Items of Deferred Maintenance: This is also known as "Curable Physical Deterioration". These items are in need of immediate repair on the effective date of the appraisal such as broken windows or worn-out floor covering. Deferred maintenance is measured as the cost to cure the item or restore it to a new or reasonably new condition.

Improvements in the Acquisition: You should note all the improvements, real and personal that are in the acquisition area.

Improvements Remaining: List or describe the improvements that remain. If the improvements are in close proximity to the proposed right of way, this should be discussed. If the improvements perhaps do not contribute to the use of the property in the after condition, you should discuss.

The current form is more oriented to the description of a residence. Some of the items listed would not apply to commercial or industrial properties such as bedrooms. You may have to make some adjustments in the items listed. In describing a commercial building, you will not be concerned with the living area. You may need to describe the gross leasable area, net leasable area, or gross building area. Industrial buildings may require a gross building area. Commercial and industrial buildings may have substantial equipment such as elevators, overhead cranes, conveyors, etc. that you would need to inspect and describe.

¹⁰ The Dictionary of Real Estate Appraisal, 7th Edition, Appraisal Institute

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Revisions to the *Uniform Act* now require or suggest that a list of items that are considered to be real and a list of items that are considered to be personal be included in the report. The current appraisal forms now include areas for those two lists.

Items of Real Property Appraised Items of Personal Property Not Appraised

Although you have described the main improvement, a list of items that you consider to be real property is required. This list does not need to be in great detail or description. It may be as follows:

- (1) 1-Story Frame Residence including all built-in kitchen appliances
- (2) 12' x 12' metal building
- (3) 30' x 40' barn
- (4) 40' x 40' shop including all built-in cabinets and tables
- (5) Above ground swimming pool

In this area, you should list all the items that are considered to be personal property and not included in the value of the real estate. Some items may be obvious, but some are not. How do you treat custom made drapes or chandeliers? How do you treat free-standing kitchen appliances? Is the window A/C personal or real? Are there any tenant owned improvements that will be removed? Are walk-in coolers real or personal? Are the tables and chairs at a fast-food restaurant real or personal? The current MDOT policy is for the Relocation Agent and Appraiser meet with the property owner at the same time and discuss which items that you consider to be real or personal. A list may include the following:

- (6) A 12' x 60' Cavalier MH (shown on tax rolls as personal)
- (7) All shop equipment
- (8) Tenant owned tables and chairs

When inspecting your property, a good idea is to have a "checklist" or "form" that you can complete and refer to when writing your report. With today's technology, an IPAD can be a good tool to draw the exterior of the improvement and utilize to include the interior rooms and various amenities. Most appraisers have utilized notes and write on file folders. If available, you may wish to take the tax drawings for comparison for different measurements.

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WHOLE TRACT

Whole Tract Declaration

On those properties where the total ownership and the Larger Parcel are not one-in-the-same, it is possible for a property to contain several Larger Parcels (Highest & Best Use areas). The acquisition may affect more than one Larger Parcel (H&BU area), it is essential that there be a clear declaration by the appraiser as to what part and/or parts of the total ownership are being appraised. This section of the appraisal report declares exactly what was valued in the appraisal process and includes:

- The size of the contiguous total ownership provided to the appraiser by the MDOT
- Declaration of the Larger Parcels (H&BU areas) within the total ownership that are unaffected
- Identification and delineation of the affected Larger Parcels (H&BU areas) described by the following methods as appropriate:
 - a. Clearly visible physical features- road, creek, ditch, fence, tree line, etc.
 - b. Subdivision boundary, Zoning line, corporate limits, county line, section line, etc.
 - c. Dimensioned area as determined by the appraiser

Total "Whole Tract" Declaration and Summary	(Ac./S.F.)

As stated above, the "Whole Tract" and the "Larger Parcel" may not be the same. The whole tract is often referred to as the total ownership. This is usually the sum of the remaining acreage and area to be acquired that is provided to you on the Acquisition Maps. At times though, the Appraisal Map may not include the total contiguous ownership. This happens when the acreage lies in more than one section of land. The title search may not have recognized this, or it may just not be shown on the plans. If you have information that indicates the total acreage being incorrect, such as from the owner, tax info, or title information, you should make every attempt to get this corrected. Why is the correct acreage important? Assume that the plans you have indicate a total acreage of 100. Yet, contiguous ownership includes land in another section. Including this, the total ownership is now over 500 Ac. Do the same sales apply for 100 Ac. and 500 Ac.? If it goes to litigation, will you testify to 100 Ac. or 500 Ac.? Perhaps it is a controlled access right of way. Have you "landlocked" 100 Ac. or 500 Ac.?

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LARGER PARCEL

Declaration of the Larger Parcel

There are three conditions or tests that are considered in determining the larger parcel, unity of ownership, unity of use, and contiguity. In certain instances, the larger parcel may not include all the lands that are contiguous and under identical ownership. In determining the larger parcel to be appraised, reliance on unity of ownership and unit of use will be given substantial weight. In determining the larger parcel, the following is noted:

Larger Parcel(s) Summary	(Dimensions, Size, and Use)

The Dictionary of Real Estate Appraisal, 7th Ed. defines the larger parcel as follows:

In governmental land acquisitions and in valuation of charitable donations of partial interests in property such as easements, the tract or tracts of land that are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use. In most states, unity of ownership, contiguity, and unity of use are the three conditions that establish the larger parcel for the consideration of severance damages. In federal and some state cases, however, contiguity is sometimes subordinated to unitary use.¹¹

Without a clear concept or understanding of the larger parcel, the appraiser cannot determine the highest and best use of a property until a conclusion as to the larger parcel has been reached. The larger parcel may be all of one parcel, part of a parcel, or the combination of several parcels, depending on ownership, use, and contiguity. The ultimate determination of the larger parcel must be made by the appraiser. *The Uniform Appraisal Standards for Federal Land Acquisitions* states:

“Determining the larger parcel is vital because the appraiser cannot determine the highest and best use of a property until a conclusion as to the larger parcel is reached.” While the question of contiguity relates to engineering and ownership being a legal matter, the ultimate determination of the larger parcel must be made by the appraiser. As stated in the *Uniform Appraisal Standards for Federal Land Acquisitions* – 1.4.6.:

“Essential to the appraiser’s analysis of highest and best use is the determination of the larger parcel. These Standards define the larger parcel as that tract, or those tracts, of land that possess a unity of ownership and have the same, or an integrated, highest and best use. Elements to be considered in determining the larger parcel are contiguity (or proximity) as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use.

The appraiser must make a larger parcel determination in every appraisal developed under these Standards. It is not uncommon for an appraiser’s conclusion regarding the larger parcel to be different from the specific parcel the client agency identified to be appraised, as the appraiser cannot determine the highest and best use without considerable investigation and analysis. In such instances, the appraiser shall inform the client agency of the determination of the larger parcel and the agency shall amend the appraisal assignment accordingly.”¹²

¹¹ *The Dictionary of Real Estate Appraisal*, 7th Edition, (Chicago: Appraisal Institute, 2022), 105

¹² *The Uniform Appraisal Standards for Federal Land Acquisitions*, §1-1.4.6., p.23-24

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The determination of the larger parcel is of utmost importance in partial acquisitions if compensable damages accrue to the remainder. It has been accepted over the years that you must testify to the “whole tract” even though parts of the tracts may not be affected. The Mississippi Supreme Court has ruled in several instances that this is not necessary (See MTC v. Fries, 5-10-95.) As a precaution though, you should be prepared to testify to the “whole tract.”

In determining the larger parcel there are three tests that are commonly recognized or accepted. These tests are as follows:

Unity of Title/Ownership: This refers to ownership. It has been generally held over the years that for one or more parcels to be considered a single larger parcel, they should be held in the same individual or group of individuals. This may not always be the case. *The Uniform Appraisal Standards for Federal Land Acquisitions* states “in making a larger parcel determination, it is allowable to consider all lands that are under the beneficial control of a single individual or entity even though title is not identical in all areas of the tract(s).”¹³ If you conclude that the larger parcel includes lands under the beneficial control of a single individual or entity, but title is not identical, your determination should be submitted to your supervisor for further guidance.

Unity of Use: This refers to highest and best use. It is not the presence or the absence of unity of use that you must consider, but the unity of highest and best use. Current use does not destroy unity of use. *The Uniform Appraisal Standards for Federal Land Acquisitions* states:

“To meet the unity of use test in federal acquisitions, the lands in question must have the same or an integrated highest and best use. Lands with dissimilar uses are not part of the same larger parcel and must be considered as separate and distinct tracts for compensation and valuation purposes... ..”¹⁴

Contiguity: Do the properties abut? This condition may not be mandatory. You may have properties separated by a road, river, or be several miles apart, but have an integrated use.

Of the three tests, it has been commonly held that to meet the requirements of the larger parcel, unity of title and unity of use are the most important. If you have an ownership that you determine involves more than one larger parcel, adequate analysis and discussion of the tests must be provided.

¹³ *The Uniform Appraisal Standards for Federal Land Acquisitions*, §1-1.4.6. p. 25

¹⁴ *Ibid*, §1-4.3.4.1, p. 111

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HIGHEST AND BEST USE

The highest and best use of the larger parcel(s) in the before and after is discussed below:

Highest and Best Use Analysis

(Address legal permissibility, physical possibility, financial feasibility, maximum productivity, in the Before & After, for all larger parcels or whole tract as applicable)

Please note that the highest and best use needs to be addressed in both the **before condition** and the **after condition**.

Although these two terms are not used anymore, these two appraisal reporting formats are considered to be at least “Summary” reports and in many cases may even be considered as “Self-Contained” reports. As such, the analysis of the highest and best use requires more than just a simple statement. *USPAP* Standard Rule 2-2 addresses what is required for these two reports. For an Appraisal Report, *USPAP* SR 2-2(a)(xii) states “when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion”. *USPAP* SR 2-2(a)(xi) states that the appraiser “must state the real estate existing as of the effective date and the use of the real estate reflected in the appraisal.” *The Uniform Appraisal Standards for Federal Land Acquisitions* emphasizes this by stating that the “...determination of highest and best use is one of the most important elements of the entire appraisal process”.¹⁵

Highest and Best Use is defined in *The Dictionary of Real Estate Appraisal*, 7th Ed., 2022, Page 88, compiled by the Appraisal Institute as:

“The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.”

Highest and Best use of land or a site as though vacant

Among all reasonable, alternative uses, the use that yields the highest present land value, after payments are made for labor, capital, and coordination. The use of a property based on the assumption that the parcel of land is vacant or can be made vacant by demolishing any improvements.

Highest and Best use of property as improved

*The use of an asset that maximizes its potential and that is possible, legally permissible, and financially feasible. The highest and best use may be for continuation of an asset’s existing use or for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid.*¹⁶

There are five basic categories of Highest and Best Use: Residential, Commercial, Industrial, Agricultural, and Special Purpose. Within these categories, you have sub-categories. Therefore, you must distinguish between the uses such as C-1 versus C-2. In many cases the Highest and Best Use is the same as the existing use. The four criteria for Highest and Best Use must be discussed. The tests of legally, permissible and physically possible must be applied first, but it does not matter which order these two are discussed.

¹⁵ *Uniform Standards for Federal Land Acquisitions*, §1-1.4.3, p 22

¹⁶ *The Dictionary of Real Estate Appraisal*, 7th Edition, (Chicago: Appraisal Institute, 2022), pg. 88

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- (1) **Legally Permissible:** Zoning ordinance, deed restrictions, building codes, conservation easements, long term leases, historical districts, and environmental regulations all have an effect on the legal use of the land and may restrict certain uses. If the property is zoned for a certain use, you should check to see if there is any probability of a zoning change. It should be a reasonable probability. As improved, you should check to see if the improvements conform with existing legal requirements. If they do not, you will have a non-conforming use that may affect the value of the improvements. Also to be considered are overlay districts that may allow for uses not shown under the existing zoning class. For Example, an overlay district is a zoning tool that adds specific rules or regulations on top of the base zoning classification for a particular area. While the property is zoned R-2, meaning it primarily permits residential uses, the overlay district modifies or supplements the zoning rules to allow additional uses, such as commercial activities, that wouldn't normally be permitted under the R-2 designation.

Overlay districts are often applied to achieve special planning objectives or address specific concerns. For instance: Preservation: To protect historical areas

In practice, the overlay district doesn't replace the original zoning designation; instead, it works as an extra layer of regulations to adapt the area's zoning to local goals or needs. However, properties within the overlay district must comply with both the base zoning rules and the overlay-specific regulations.

- (2) **Physically Possible:** This test should address the physical characteristics of the land such as size, shape, topography, soils, frontage/depth, etc. Available utilities should be considered. Some parcels may achieve their Highest and Best Use by assemblage with another tract or ownership. If so, it may have a "plottage" value. Assemblage is the combining of two or more tracts into one ownership or use. It is the process that creates plottage value. Plottage is that increment of value created when two or more sites are combined to produce greater utility. As improved, you should address the size, location, design, and condition of the improvement. Is the improvement an over improvement or an under improvement?
- (3) **Financially Feasible:** At this point, you have eliminated some of the possible uses of the land, and you are now only considering those that met the first two criteria. The test of financial feasibility is value versus cost. If the use has a value commensurate with its cost, then the use is financially feasible. As improved, the present use is financially feasible if a positive return on the investment is created. The value of the property improved must exceed the value of the land as if vacant.
- (4) **Maximum Productivity:** For a use to have maximum productivity, it must have passed the first three tests. The Highest and Best Use of the land is the use that produces the highest residual land value.

Not only should these 4 criteria be explained for the before condition, but they should also be considered and discussed in the after condition. Often due to the acquisition, the size of the remaining property may not meet current zoning requirements or other ordinances. As such, you must investigate to see if the property can be "grandfathered" in or will it have a different Highest and Best Use from the before.

Your analysis of Highest and Best Use should answer questions such as "Should the land be developed or left vacant? What kind of improvement should be built? Should the improvements remain as is, altered, or demolished?"

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There are special situations that may exist in your analysis of Highest and Best Use, such as:

- (1) **Legal Non-Conforming Use:** It is a use that at one time was legal but does not now conform to current zoning regulations. It has been “grandfathered” in.
- (2) **Interim Use:** This is a temporary use where a site or improved property is put until it is ready to be put to its Highest and Best Use. Consideration of an interim use may create a problem with the theory of “Consistent Use.” Consistent Use basically states that land cannot be valued based on one use while the improvements are valued based on another.
- (3) **Multiple Uses:** Land and improvements may have more than one use. A large tract of land may have development potential with commercial on the front and residential on the rear. A large multi-story building may have retail shops at ground level and offices or apartments on the upper levels.
- (4) **Special Purpose Use:** These are properties that have perhaps only one use or a limited number of uses. You may have to consider the value based on the continuation of its present use or converting it to another use.

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VALUATION PROCESS (LAND)

Both the land report and improved report have a section for the valuation of the land (before and after). The value of the land (larger parcel) must be based upon its highest and best use. If you have multiple larger parcels, you may need multiple land valuation pages. The guide will discuss in general the land valuation page, and in more depth, the explanation of adjustments.

All three approaches to value can be used in estimating the value of land. The Sales Comparison Approach is used when there is sufficient market data to compare to the appraised property and perhaps is the preferred methodology. Besides a direct comparison, there are alternative methods that can be used when sufficient comparable data is not available.

- (1) Extraction: This method estimates the value of the land by “extracting” from the sale price of an improved property the land value by deducting the contributory or depreciated value of the improvements based on cost.
- (2) Allocation: This method is based on typical ratios of land value to property value for specific categories of properties.

Both of these methods require a large number of sales to support the analysis.

Besides the Sales Comparison Approach, the Cost Approach and Income Approach can also be applied to vacant land. Although we think that the Cost Approach is for improved properties, it is applicable when valuing developed subdivisions from which you can establish development costs. The Income Approach can be used either using rents for vacant land or estimating the land value by use of the Land Residual Technique. This guide will address primarily the Sales Comparison Approach, but the user is encouraged to become familiar with other methods and techniques that can be applied when there are a limited number of vacant land sales.

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Grid Analysis

Sales Comparison Approach – (Land) – Before Value

1 ☐ Complete Take
2 ☐ Partial Take

3

Item	Subject	Size	Sale Price	Description	Unit of Measure	Adjusted Price	Unit of Measure	Adjusted Price	Unit of Measure	Adjusted Price
Proximity to Subject										
Sale Price										
Price Per Unit										
Property Rights Conveyed										
Adjusted Price										
Condition										
Adjusted Price										
Condition of Sale										
Adjusted Price										
Market Conditions										
Adjusted Price										
Location										
Size										
Topography										
Utilities										
Other										
Net Adjustment										
Adjusted Sales Price										

4

5

6

7

Adopted Unit Value, Before (Land Only):

Size	Unit of Measure	Value
0.000		\$0.00

Add (Timber, in-kind site improvements, other - See Attached):

Total Before Value (Land Only):

There are certain items that must be entered to make this page work correctly. As a suggestion, be careful using the scroll up and down bar within the embedded sheet. If you are not careful, you may “cut-off” the box that indicates “Complete Take” and “Partial Take.” You can use the scroll bar for the main window.

- (1) Make sure you check “Complete Take” or “Partial Take”
- (2) For the computations to work correctly within the sheet, you must enter “Acreage, SF, or Lot”. This will automatically convert the sales price to a unit value when you enter the size of the sale.
- (3) Enter the proximity of the sale indicating distance and direction.
- (4) Enter the Sales Price of the comparable sale.
- (5) Your adjustments should be in a dollar amount on this page. You may actually calculate your adjustments on a percentage basis.
- (6) Enter your adopted unit value based on the adjusted sale price of the comparable sales.
- (7) If you have any additional items to be included with the land such as timber, landscaping, pond, etc., enter those amounts. An explanation and support of these values is required.

Please note transactional adjustments are made prior to physical adjustments with the physical adjustments made to the adjusted unit value after any transactional adjustments.

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Sales Comparison Approach – (Land) – After Value

☐ Complete Take
☐ Partial Take

Item	Subject	Comp Sale #	Comp Sale #	Comp Sale #
Proximity to Subject				
Sales Price				
Price Per Unit		\$0.00	\$0.00	\$0.00
Property Rights Conveyed	Description	Description	Description	Description
Adjusted Price	Price, Date, etc.	Price, Date, etc.	Price, Date, etc.	Price, Date, etc.
Financing	Typical			
Adjusted Price		\$0.00	\$0.00	\$0.00
Condition of Sale	Arms-Length			
Adjusted Price		\$0.00	\$0.00	\$0.00
Market Conditions	Date of Sale			
Adjusted Price		\$0.00	\$0.00	\$0.00
Location				
Size				
Topography				
Utilities				
Other				
Net Adjustment		(%) \$0.00	(%) \$0.00	(%) \$0.00
		Net %	Net %	Net %
		Gross %	Gross %	Gross %
Adjusted Sales Price		\$0.00	\$0.00	\$0.00

Adopted Unit Value, After (Land Only):			
Size	Unit of Measure	Rate	
0.000		\$0.00	\$0
Less: Cost to Cure - (See Attached):			
Less: Easement - (See Attached):			
Less: Other - (See Attached):			
Total After Value (Land Only):			
Difference in Before and After:			

In many instances, the sales that you used in the before will apply to the remainder. A statement at the top of the page such as “No change in unit value” should be inserted.

- (1) If you have a change in unit value that is based on market evidence, you need to use new sales.
- (2) Cost to cure items have to be deducted from the after value and are shown in the allocation as a damage item. These may include but are not limited to fencing, driveways, water lines, septic systems, landscaping, etc. Remember the cost to cure fencing is calculated along the proposed right of way. If you have a temporary easement, calculate distance around the easement and pay full amount. Do not fence an uneconomic remnant! The calculation of these damages must be supported with source of information, cost per foot, and total footage.
- (3) If you have a temporary easement, you should deduct the value of the easement at this point. Calculation of the easement value must be shown.
- (4) Deduct all the damages, if any, and temporary easement to arrive at the after value of the land. Deduct the after value of the land from the before value of the land.
- (5) There may be times that you have two or more remainders, and one may be an uneconomic remnant. You can enter a row for the value of the remnant and explain the calculation later in the report.

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Example

Additional Comments:

The remainder is divided between two tracts. The northern tract is roughly 86.136 acres and is valued at the before value of \$1,200 per acre. The southern tract is in three sections containing approximately 273.715 acres in total. Of this, 267.415 acres are valued at the before value of \$1,200 per acre. A remaining 6.3 acres will be too small to sustain its current agricultural use and is considered damaged. Consequently, it has been valued at \$300 per acre.

Adopted Unit Value, After (Land Only): _____

Size	Unit of Measure	Rate		
353.551	Acre(s) @	\$1,200	Per Acre	\$424,261
6.30	Acre(s) @	\$300	Per Acre	\$1,890

Less Damages - (See Attached):

Total After Value (Land Only): \$426,151

R/O \$426,150

Difference in Before and After: \$27,650.00

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Explanation of Adjustments

The old saying “no two properties are exactly alike” is very true. If they were, then no matter where located, no matter the topography, no matter what differences that exist, the properties would probably sell for the same. We all know that this is not true. Therefore, we must analyze the market to distinguish what the differences are and what affect did these differences have on value, if any. Adjustments recognize the differences between properties, the subject property and the comparable sale. There are only three possible ways that you can compare the comparable sale and the subject for any one difference—(1) the subject is superior to the comparable or the comparable is inferior to the subject; (2) the subject is equal to the comparable or the comparable is equal to the subject; and (3) the subject is inferior to the comparable or the comparable is superior to the subject. Remember that you always adjust the comparable to the subject. By making the adjustments, you are attempting to make the comparable equal to the subject.

There are basically two types of adjustments—quantitative and qualitative. Quantitative adjustments are applied to the comparable sales either as a dollar or percentage adjustment. Qualitative adjustments tend to bracket or rank the comparable sales based on how relative it is to the appraised property. You will notice that the forms are prepared for a quantitative analysis.

In order to make the proper adjustments to the comparable sales if needed, analysis of the sales is required. You are trying to determine what factors caused a difference in sales price for similar properties. Was it market conditions, size, location, or other factors? One of the best methods to distinguish differences is with “Paired Sales Analysis.” Paired Sales Analysis is defined as “a quantitative technique used to identify and measure adjustments to the sale prices or rents of comparable properties. To apply this technique, sales or rental data on nearly identical properties, or adjusted data, is compared to isolate and estimate a single characteristic’s effect on value or rent.”¹⁷ This method is particularly useful when there is sufficient data is available. As stated earlier, the world we work in is not perfect and more than likely, the differences that you find between properties for certain factors will not be perfect. But perhaps you can establish a trend from which you can draw your conclusion. It would be much better in the report to state that Sale 1 and Sale 2 indicated a 10% difference due to location instead of saying “in my opinion, a 10% adjustment for location is required”. Although this analysis is more reliable when the paired sales have only one difference, you can pair sales with more than one difference by adjusting one of the sales for a known difference to make it comparable to the other sales.

¹⁷ *The Dictionary of Real Estate Appraisal*, 7th Edition, (Chicago: Appraisal Institute, 2022), pg. 139

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In making your adjustments, you need to understand the difference in “elements of comparison”, “units of comparison”, and the “sequence of adjustments”. As defined in *The Appraisal of Real Estate, 12th Ed.*¹⁸ “elements of comparison are the characteristics of properties and transactions that help explain the variance in prices paid for real estate.” They are the differences that exist between properties and what may have had an effect on the price paid. *The Dictionary of Real Estate, 7th Ed.*¹⁹ defines units of comparison as “the components into which a property may be divided for purposes of comparison, e.g., price per square foot, front foot, cubic foot, room, bed, seat, apartment unit.” In most cases, the valuation of vacant land or an improved lot will be based on a per acre or per square foot basis. You can use a “lot” basis for a unit of comparison. Special care should be given to using a “per lot” unit of comparison. Front feet can also be considered but may not be appropriate if the before and after frontage remains the same. Therefore, if properties are selling on a front foot basis, you may need to convert to a per square foot or per acre unit value. Sequence of adjustments is the order in which quantitative adjustments are applied to the sales price of the comparable sale. If you are making your adjustments based on a percentage basis, the adjustments must be in a certain order-i.e., real property rights conveyed, financing (cash equivalency,) conditions of sale (motivation), market conditions (time), and physical characteristics.

Explanation of Adjustment-(Land)	
(Before and After)	
Before Value – Land Adjustments	
Property Rights Conveyed:	1
Financing:	2
Conditions of Sale:	3
Market Conditions:	4
Location:	5
Size:	6
Topography:	7
Utilities:	8
Other:	9

- (1) **Property Rights Conveyed:** The value of the subject or appraised property is based on fee or fee simple ownership. A property may have sold subject to a long-term lease. Did the lease have an effect on value? A sale may involve only a leasehold interest. Rights conveyed by a quitclaim deed may not include the total bundle of rights.
- (2) **Financing:** The valuation of the appraised property is based on “cash or terms equivalent to cash” and assuming typical financing. You must confirm the financing terms of the sale. Did it involve the assumption of an existing mortgage? Did the developer or seller arrange for a buydown—paying cash to the lender to obtain below market financing? Does the sale involve owner financing? If financing affects the sales price, you may be required to do a “cash equivalency” in order to determine the adjustment needed for favorable or unfavorable financing.
- (3) **Conditions of Sale:** Within the definition of market value the assumption is made that both buyer and seller are “acting prudently, knowledgeably, and for self-interest, and that neither is under undue duress”. Conditions of sale reflect the motivations of the buyer and seller.

¹⁸ *The Appraisal of Real Estate, 12th Ed.*, Appraisal Institute, Chicago, IL, Pg 426

¹⁹ *The Dictionary of Real Estate Appraisal, 7th Edition*, (Chicago: Appraisal Institute, 2022), pg. 197

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Was the sale an “arms-length” transaction—no duress? Were the buyer and seller related? If so, did this affect the price paid?

- (4) **Market Conditions:** This is often referred to as a “time adjustment”. Sales occur at different times and the market conditions may have been different at the times the sales occurred. An adjustment is not always required just because there has been a substantial lapse in time. You are testing to see if property values are increasing or decreasing due to inflation or deflation. Pairing sales, especially those that have sold and resold, will perhaps provide the best indication.
- (5) **Location:** An adjustment for location may not be required due only to the properties being located a substantial distance apart. Not only is location a physical attribute, but it is also a time-distance relationship. Adjustments for being on a highway versus a paved county road must be supported by sales in the market. Location on a major thoroughfare versus a secondary street may be a positive factor for commercial properties, but a negative factor for residential properties. A property may be located actually closer to shopping, schools, medical facilities, etc. than another property, but due to circuitous travel, it may actually take longer to reach these areas than the farther away property. Which one may actually have the better location? Is the property located in a developing or growth pattern area or in a rural isolated location?
- (6) **Size:** While not always true, typically a smaller tract of land will have a higher unit value than a larger tract. Size is an important factor when it relates to Highest and Best Use. The size of a property may restrict certain uses, and if it is zoned for a certain use, the property may need to be assembled with another property to obtain the Highest and Best Use. Most counties have minimum lot size requirements for septic systems. Size and shape should be considered together. A lot 10' x 4,356' would not have the same utility as a 210' x 210' lot, although both are basically 1 acre in size. Does a 1 acre triangular shaped lot have the same potential as a rectangular shaped 1 acre lot? If you consider size and shape to have an effect on the after value of the subject property, you should also consider the same for similar properties in the before condition or sales that are similar.
- (7) **Topography:** Topography relates to the surface configuration of the land. Is it hilly, sloping, relatively flat, or low-lying land? Topography can have an effect on building costs or use of the land. A 1 acre tract level to gently sloping may have more useable area than a 5 acre steep sloping tract of land. Low-lying bottom land may have use only for agricultural purposes. Soil types should be investigated along with the topography.
- (8) **Utilities:** Having utilities available such as water, sewer, and electricity may provide more development potential than a tract without these utilities. Utilities may be off-site or on-site. On-site utilities are typically septic systems, water wells, and maybe LP gas.
- (9) **Other:** Other items that may need to be recognized include zoning, shape (if not discussed with size), frontage, site improvements such as grading, landscaping, fences, irrigation systems, walks, land-leveling, drainage, etc.

Following are some suggested “Do’s and Don’ts” in your explanation of adjustments:

- (1) **Don’t:** “A 6% annual adjustment was made to the sales for time due to the sales being older.”
Do: “Sale 1 and 2 is a property that sold and resold with no major change in the property condition. It originally sold in August 2023 for \$6,000 per acre. It then sold in July 2024 for \$6,500 per acre. This indicates an 8.33% increase or a 0.76% increase per month that can be attributed to time. Sale 3 and 4 are very similar properties located adjacent to each other and basically the same size. Sale 3 sold for \$7,000 per acre in October 2022, and Sale 4 sold for \$8,500 per acre in October 2024. This indicates a 14.3% increase over a 2-year period or approximately 0.6% per month increase due to time.”
- (2) **Don’t:** “A 10% increase was made to Sale 1 because it is larger than the subject property.” Any person who reads the report can see that you made a 10% increase! **Do:** “Sale 1 had an upward adjustment of 10% for size. As shown in the Comparable Sales Brochure (or Market Data Book,) sales ranging in size from 1-3 acres indicate approximately a 10% higher unit value than sales from 5-10 acres in size.”

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It is your responsibility to analyze the sales. **You are not a participant in the market, but an interpreter of the market!** It is suggested that as part of the Comparable Sales Brochure (Market Data Book) that a section be devoted to the analysis of the sales and the indicated adjustments or range in adjustments that will be made. By doing this, each appraiser on the project will be making similar adjustments for the different elements of comparison. Although each appraiser must maintain some independence, it is difficult for the reviewer to accept an appraisal that has a 12% annual increase for time and another that indicates no increase for time. One or perhaps both of the appraisers are not analyzing the sales correctly.

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Reconciliation

Before Value - Reconciliation of Land Sales

Reconciliation is not simply stating that “the sales indicate a range from \$5,000 per acre to \$7,000 per acre. Therefore, I adopted a unit value of \$7,000 per acre.” The reader can see that! As stated earlier, there are two methods in making adjustments—quantitative and qualitative. The sales grid provides for quantitative adjustments. Qualitative analysis is a process of ranking the sales. You should look for the sale or sales that are most representative of the appraised property. Which sales required the fewest adjustments, and **which sales required the lowest gross adjustment**. Although net adjustments are shown, you could have a -0- net adjustment but a 100% gross adjustment. It would be questionable if this is a comparable sale. The more elements you have to adjust for, the less likely the comparable is similar to the subject. There is nothing wrong to even reference other sales that were not directly compared to the subject property but support the final adopted value. **Remember, market value says, “the most probable price”; it does not say “the highest price.”**

After Value

We have addressed mainly the grid, analysis, and reconciliation for the before value. The grid for the After Value is very similar to the Before Value. The primary difference is at the bottom of the page.

Adopted Unit Value, After (Land Only): _____			
Size	Unit of Measure	Rate	
			\$0
		Less Cost to Cure - (See Attached):	
		Less Easements (See Attached):	
		Less Other (See Attached):	
		Total After Value (Land Only):	\$0
			r/o
		Difference in Before and After:	

- (1) The first row covers the remaining value of the land that remains. Make sure you have the correct acreage. The remainder shown on the map includes the temporary easement areas. If you have two or more remainders, one being an uneconomic remnant, you need to insert a row for the value of remnant. You may also have two or more larger parcels remaining. If the unit values have not changed, you can insert rows for each larger parcel. You do not need separate pages for each remaining larger parcel. An explanation as to the value of the remaining parcels is required though.
- (2) You may have items that need to be deducted that you did not consider in the land valuation. You may need to replace fencing, a driveway, landscaping, water well, septic system, or some other item. These are deducted as cost to cure items. Explanation as to the cost of these items must be explained and supported. You are cautioned to not deduct the cost to cure items if you recognize severance damage due to the loss of the same item. Uneconomic remnants do not need to be referenced. Deducting for other items may include a “Q-Deed.”
- (3) Once you have deducted for cost to cure, easements, and other, you have arrived at an “adjusted” after value. The difference in this value and the value before is calculated.

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In many cases, the remainder will have the same unit value as the before. Therefore, repeating the same grid and analysis is not necessary. There may be times though that you need to address a remainder that is an uneconomic remnant. The following are suggestions that may be useful to you as to how to address the remainders:

Explanation of Adjustments – After Value

Damages: There will be a remainder of 32.401 Ac. $\pm$ located east of the proposed ROW. This remainder will be mostly rectangular in shape and will have access via a frontage road that will dead end on the south line of the property. However, the property owner has a gravel drive from which he can access to his property located on the north line of the property. He will no longer have access to this drive. Therefore, in order to cure this problem, a drive will have to be built connecting the frontage road to the existing gravel drive. This connecting drive will be gravel, approximately 500 long, and will require 3 to 4 feet of fill because of its location in the low-lying area. The drive will also have to allow for the culverts already dug in the area. XXX of YYY Construction Company was contacted and asked to provide a cost estimate for this connecting drive. He allowed for fill, gravel, and culverts and obtained a cost of \$12,700 to build this drive.

Before Values		
0.826 Acres $\pm$	@ \$8,500/ac. =	\$7,025
35.516 Acres $\pm$	@ \$2,000/ac. =	\$71,025
	R/O	\$78,050

After Values		
32.401 Acres $\pm$	@ \$2,000/ac. =	\$64,800
Less Damages (Cost to Cure) =		\$12,700
Total =		\$52,100

Difference in Before and After Values = \$25,950

Explanation Of Adjustment-(Land)

(After)

After Value - Reconciliation Of Land Sales: In the After condition, the appraised property will be divided into two tracts. The larger tract lies to the southwest of the proposed ROW and retains access to Hwy. 342. It has been valued at the before value of \$2,000 per acre. The smaller tract rests to the east of the proposed ROW and contains 7.078 acres more or less. Access to the smaller tract is to be provided by a frontage road ending in the northwest corner of the tract. The size and shape of the tract are such that it would no longer be desirable for agricultural use. The northern remainder would perhaps have utility to the abutting owner, but would have little utility to this owner. Therefore, it is estimated to have a value of \$1,000 per acre.

17.965 Acres $\pm$	@ \$2,000/ac. =	\$35,930
7.078 Acres $\pm$	@ \$1000/ac. =	\$ 7,078
Total =		\$43,008
	R/O	\$43,000

NOTE: An X-Deed was requested for the northern 7.078 Ac. $\pm$. The X-Deed provided to the appraiser is for both remainders. It is the appraiser's opinion that the 17.965 Ac. $\pm$ is not an uneconomic remnant. As shown, it has not suffered a loss in value. It still has adequate size, shape, and access for use by the owner for rural residential/agricultural purposes.

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In the After Condition, the remainder will retain the same Highest and Best Use. Therefore, the same unit value applies. Cost to cure fencing the remainder is considered. The property is fenced with 4-strand barb wire. The fence will need to be replaced along the proposed ROW for a distance of 1,000 LF. XXX Fence Company of YYY has provided a cost of \$2.80 per linear foot to replace the fencing. This amounts to \$2,800.

As the courts require that an estimate provided by a contractor be available for testimony, if you utilize a cost estimate based on a quote from a contractor it may be best to also compute a cost based on a published Cost Guide such as Marshall Valuation Service. If not, the estimated cost could be considered hearsay, and your testimony may not be allowed.

That is not to say that a cost estimate should not be from a contractor, however, you should make sure that the provider of the estimate is willing to testify in court. If not, if a contractor was relied upon and they are not willing to testify, be prepared to compute your own estimate.

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Sales Comparison Approach-Improved Residential

This part of the guide will address the grid analysis and valuation of improved residential property. Avoiding repetition, comments as to supporting and explaining adjustments are the same as discussed in the land valuation segment. The only difference is that you are now discussing improved properties, and we will focus more on the grid itself.

**Sales Comparison Approach – Total Property
(Residential) Before Value**

☐ Complete Take
☐ Partial Take

Item	Subject	Comp Sale #	Comp Sale #	Comp Sale #
Proximity to Subject				
Sales Price				
Price Per Unit				
Property Rights Conveyed	Description	Description	± Adj.	Description
Adjusted Price			± Adj.	
Financing	Typical			
Adjusted Price			± Adj.	
Condition of Sale	Arm's Length			
Adjusted Price			± Adj.	
Market Conditions	Date of Sale			
Adjusted Price			± Adj.	
Location				
Quality of Construction				
Age/Condition				
Functional Utility				
Above Grade Room Count	Total Rms. Bedrooms Baths			
Site (G/L)				
Basement & Finished Rooms Below Grade				
Garage/Carport				
Heat/Cooling				
Porches/Patio				
Special Features (Built-ins, Fireplace, Swimming Pool, etc.)				
Energy Efficient				
Land Adj. Value (adj.)				
Net Adjustment		(+/-)	\$0.00	(+/-)
		Net %		Net %
		Gross %	0.00%	Gross %
Adjusted Sales Price			\$0.00	
Adjusted Sales Price/GP				
Adjusted Value (Improvement and Lot):				
Additional Improvements (Garns, shade, etc):				
Additional Land:				
Total Before Value:		\$0.00		

4

The grid analysis for improved is very similar to that for land. It is a quantitative analysis. For the form to work correctly, the adjustments must be entered as a dollar amount although you may actually calculate the adjustment on a percentage basis.

- (1) Make sure you enter the appropriate information on your comparable sale—Sale #, Proximity to Subject, and Sales Price. Once you have entered the appropriate unit of comparison, normally SF, the form will calculate the Price Per Unit.
- (2) These are the same items discussed in the land valuation and will not be repeated.
- (3) Three will cover all the elements of comparison following. It is very important that you understand that you are comparing improvement to improvement. Any percentage adjustment that you make should be only to the improvement.

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- (4) Therefore, you need to deduct the land value from your sell price.
- (A) Location: As discussed in the land segment, location is not only to type of road, neighborhood, etc., but is a time-distance relationship. The adjustment must be market driven.
 - (B) Quality of Construction: This requires not only an inspection of the subject, but an inspection of the comparable sale. You should look at the building materials that were used in the comparable versus those of the subject. Heavy duty asphalt shingles cost more than regular asphalt shingles. Are the exterior doors solid or hollow core? Are the cabinets custom made or stock?
 - (C) Age/Condition: Age is somewhat a judgmental decision. You are estimating the effective age of the subject and the comparable as well as condition. Condition has an effect on the effective age. This adjustment can be made based on depreciation rates. For example, assume your subject has an effective age of 10 and the comparable 15. Marshall Valuation indicates a total depreciation of 8% and 12% with an economic life of 60 years. Assuming a cost new of \$60/SF, the comparable has \$2.40/SF more depreciation. If the comparable is 1,200 SF, a \$2,880 upward adjustment is warranted.
 - (D) Functional Utility: This relates to the design and floor plan of the comparable as compared to the subject. Where are the bedrooms located? Is there an easy flow of traffic from room to room?
 - (E) Above Grade Room Count: There is a box now for total rooms. You may find that adjusting for total rooms is more related to the adjustment for size. This may also hold true for bedrooms, but you need to study the market to see if the difference in value is related to bedrooms or strictly size. The market will tend to recognize a difference in value due to the number of bathrooms. Information from local brokers can be useful in this area.
 - (F) Size: There are maybe two ways that you can make the size adjustment. First, you can deduct the land value from the total price to arrive at the depreciated value of the sale. Dividing by the square footage of the sale will give you the depreciated square foot value. This value can then be applied towards the difference in size of the subject and comparable. Another way is to look at all your sales and establish a range for different types of residential properties. You may find that the low end or older homes in fair to poor condition indicate a range from \$10 to \$18 per square foot (improvement only.) Another grouping may indicate a range from \$25-\$30/sf. Another group may indicate from \$35-\$45/sf. From analyzing all the sales, you may end up with \$15 for one group, \$25 for another, \$30 for another, etc. If you are making adjustments based on the square foot price, you are cautioned as to make sure you adjust the correct direction for size. Example:
 - (1) Subject 1,400 SF; Comparable 1,200 SF; Sold for \$50,000 or \$41.67/SF. If you adjust based on the total price, the adjustment would be +\$6,000 (assuming a \$30/SF adjustment.) If you adjust on Sale price/SF, your adjustment may be -\$2.50/SF (assuming cost new for 1,200 SF is \$55.50 and for 1,400 SF is \$53.)
 - (G) Garage/Carport: Not only should you consider a one-car carport/garage versus a two-car carport/garage, but you also must consider if attached or detached. There is also a difference in a garage and carport. A carport is open-sided, whereas a garage is enclosed.
 - (H) Heating/Cooling: Are the systems the same in the subject and comparable? Many homes today may have central air and heat plus “zone” gas heaters as an energy efficient item. Are the window units in the wall or in the windows? If your subject has window units, were they part of the selling price?
 - (I) Porches/Patios: In many instances, you may find this to be a minor adjustment and sometimes difficult to isolate in the market. But you may also

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find that the properties may differ substantially in the size and style of porches and/or patios. Decks should also be included in this discussion. Cost new less depreciation may be one way to measure the adjustment.

- (J) **Special Features:** As listed, this includes many items. You may be considering built-in kitchen appliances, fireplaces (check to see if wood or gas or both), swimming pools, security systems, built-in stereo systems, built-in wall vacuum systems, etc. Some of these items may be based on cost new less depreciation, such as the kitchen appliances. Others may only have a contributory value such as a swimming pool. Again, measuring the contributory value from the market is the recommended method to determine the adjustment for a certain item.
 - (K) **Energy Efficient:** Does the improvement have any energy efficient items such as solar panels, double-paned insulated glass windows, insulation (type and rating), etc.?
 - (L) **Lot Size/Value Adj.:** This adjustment recognizes the difference in the value of your subject's lot and the comparable sale's lot. Remember you are comparing improved properties to improved properties. If you added landscaping to the subject's lot, do you not think that the comparable had landscaping also? It is a concern to see the subject's lot at one value and a lot in the same subdivision, neighborhood, or basically equal have a different unit value, which is usually lower.
- (5) Once you have made all your necessary adjustments, you will see that the form calculates the net adjustments and the gross adjustments for each of the sales as well as an adjusted sales price and adjusted sales price/SF. It is very important that you analyze and reconcile the sales considering the gross adjustments and the number of adjustments. From this range in indicated values, you will adopt a value that applies to the residence and lot. If you did not include any additional improvements in the grid, you must add the contributory value of those items. In some cases, they may be minor storage sheds and require only a nominal value. In other cases, you may have to estimate the cost new and deduct for any depreciation. Any additional land value must be added to arrive at a total before value.

After Value-Improved

Adopted Value (Improvement and Lot):		
Additional Improvements (Barns, sheds, etc):		
Additional Land:		
Less Cost to Cure:		
Less Easements:		
Less Other:		
Total After Value:		
Difference in Before and After:		



- (1) The first three rows cover the remaining value of the improvements that remain as well as any land that remains. The remaining residence may have suffered a loss in value due to proximity, loss of sewage disposal, etc. If the value is not based on market sales, you will need to provide a detailed explanation as to how the value of the improvements was calculated.
- (2) You may have items that need to be deducted that you did not consider in the land valuation. You may need to replace a driveway, landscaping, water well, septic system, or some other item. These are deducted as cost to cure items. Please note that some of the mentioned items such as replacement of a septic

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system, water well, etc. are now handled through relocation. Explanation as to the cost of these items must be explained and supported. In recognizing cost to cure, you should estimate the value of the remainder if not cured first. You will not do a cost to cure if the cost is greater than the actual loss in market value. If you deducted the easement value from the land, do not deduct again ("double-dipping".) Deducting for other may include for a "Q-Deed."

- (3) Once you have deducted for cost to cure, easements, and other, you have arrived at an "adjusted" after value. The difference in this value and the value before is calculated.

Sales Comparison Approach-Commercial/Industrial/Special Purpose

Size (GBA)							
Quality of Construction							
Age/Condition							
Functional Utility							
Rentable Areas (Net/Gross)							
Bldg./Land Ratio							
Heat/Cooling							
Equipment							
Parking							
Special Features (Sprinkler System; Security, etc)							

As you can see, the grid for these types of properties is very similar to that for improved residential. There are a few items that need to be discussed though.

- (1) **Size (GBA):** As defined in *The Dictionary of Real Estate Appraisal, 7th Ed.* gross building area is "Total floor area of a building, excluding unenclosed areas, measured from the exterior of the walls of the above grade area. This includes mezzanines and basements if and when typically included in the market area of the type of property involved."²⁰ An adjustment for difference in size would be made.

Rentable Area (Net/Gross): Rentable area is the amount of space that rent is based on. *The Dictionary of Real Estate Appraisal, 7th Ed.* defines Gross Leasable Area as "Total floor area designed for the occupancy and exclusive use of tenants, including basements and mezzanines; measured from the center of joint partitioning to the outside wall surfaces."²¹

It is important that in confirming the sales price and rent to understand if rent is based on gross leasable area or net leasable area. Where GLA includes the total building, net leasable area may exclude restrooms, waiting rooms, lobbies, elevator space, etc.

²⁰ *The Dictionary of Real Estate Appraisal, 7th Edition*, (Chicago: Appraisal Institute, 2022), pg. 85

²¹ *Ibid*, Pg. 86

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- (2) **Equipment:** Industrial and special purpose properties may have specifically designed equipment that will only go with that particular building and are attached in such a way that they cannot be moved. These items must be recognized as their contributory value. Other buildings may have elevators, escalators, smoke detectors, sprinkler systems, security alarms, loading facilities, etc.
- (3) **Parking:** Parking is essential for retail businesses. The number of spaces and location is a major consideration. Zoning regulations will normally dictate the number of spaces required for different uses—office, retail, restaurants, industrial, churches, etc. Loss of parking may be an element of damage that needs to be considered either based on rent loss or cost to cure.

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COST APPROACH

Explanation and Application of Cost Approach

The Cost Approach is based on the assumption that the value of the property tends to reflect the value of the site plus the current cost to produce the improvements, less any existing depreciation. The steps are as follows:

1. Estimate the value of the site (land) as if vacant
2. Estimate the reproduction or replacement cost new of all the improvements (excluding any that were included as part of the site value).
3. Estimate accrued depreciation from all causes (physical deterioration, functional obsolescence, and external obsolescence).
4. Deduct accrued depreciation from the cost new of the improvements to arrive at a depreciated value of the improvements.
5. Add the site (land) value (Step 1) to the depreciated value of the improvements (Step 4) to arrive at a value indicated by the Cost Approach.

The steps in the Cost Approach are provided, and will be discussed following:

- (1) **Site/Land Value:** The value of the site/land is based on the Sales Comparison Approach. Remember, the land value is based on the land as if vacant and ready to be developed to its Highest and Best Use.
- (2) **Reproduction Cost:** Today's cost for an exact replica (includes any existing functional obsolescence.)
Replacement Cost: Today's cost for building with equal utility (may eliminate all or a portion of functional obsolescence.)
- (3) **Accrued Depreciation:** Loss in value from all causes (physical, functional, and external/locational)
- (4) **Step 2 minus Step 3 equals the depreciated (present or contributory) value of the improvement**
- (5) **Add Step 1 plus any other site improvements to Step 4 to arrive at indicated property value.**

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Cost New

Cost New-Property Before: Construction cost used in this report were based on several sources, which may include: conversations with contractors and architects who build and develop this type of property; costs obtained on other properties with comparable plans and specifications; and costs obtained from Marshall & Swift Residential Cost Handbook and/or Marshall Valuation Service, both being a replacement and reproduction cost guide published by Marshall and Swift Publication Company. 1

The cost estimate is the final cost to the owner, including average architectural and engineering fees. These, in turn, include plans, plan check and building permits, and a survey to establish building lines and grades. The cost also includes: normal interest on building funds during periods of construction; processing fee or service charge included; sales taxes on materials included; normal site preparation; utilities from structure to lot line figured for typical setback; and contractor's overhead and profit, including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc. 2

According to (Marshall Valuation Service or Marshall & Swift Residential Cost Handbook), Section , page , Class , the cost for the similar to the subject improvement ranges from \$ to \$ per square foot. The local cost multiplier for the area, which adjusts basic building costs to reflect local cost conditions, is (Section , Page). The current cost multiplier, which brings these costs up to date, is (Section , Page , Region). Thus, the adjusted cost range is to per square foot. Based on my analysis of the subject's improvements, I have estimated the cost of the building to be per square foot.

 with , a builder/contractor estimated the cost to build the to be or per square foot. The builder/contractor is familiar with local material and labor costs of the subject area. A copy of this estimate is made part of this report and is included in the addenda section. 3

From an analysis of these two estimates, it is my opinion that the cost new indicated by is the adopted indication of the cost new of the subject improvement and is supported by . 4

(Similar explanation is required for other improvements obtained from contractor or Marshall & Swift. For all other sources of cost information, your attention is directed to the Market Data Book.)

Although the Cost New-Before is very well explained, some detailed information may be useful

- (1) If you are relying on the Cost Approach as the final estimate of value, you are encouraged to contact a building contractor. If the Cost Approach is used only secondary to the Sales Comparison Approach or for minor improvements such as sheds, garage, barn, etc., Marshall & Swift Residential Cost Handbook or Marshall Valuation Service or similar publications will be sufficient and may estimate depreciation on a straight line age/life basis.
- (2) It is important that you let your contractor know what to include in his/her cost estimate. Marshall & Swift and Marshall Valuation Service will include most of these items, but depending on the type of building, you may have to add for architectural and engineering fees.
- (3) If you are using the cost manuals, please take time to read the introduction describing the improvement that is shown in each section. You may find that you consider your house to be average construction, but based on the cost manual, it may be fair or excellent. Make sure you include all the additional items that are not a part of the base price. If your square footage does not fit the square footage costs provided, you can give a range that includes the square footage immediately less than your subject and the square footage immediately more than your square footage. Or you may wish to interpolate.
- (4) If you use both a contractor and the cost service, it is questionable, unless you have vast knowledge of construction costs, that the estimate from the cost service is better than the contractor. This is not to say that the contractor is always correct. If you think the contractor's estimate is out of line, you may wish to contact your supervisor to explain the situation and may need to request another estimate. Whichever estimate you use; this is your beginning point for the cost new estimate.

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Depreciation

Depreciation: Accrued depreciation is any loss in value from all sources. Traditionally, appraisers use three sources: physical deterioration, functional obsolescence, and external obsolescence.

As defined, accrued depreciation is a loss in value from all causes (physical, functional, and external). If you are relying upon the Cost Approach, the “Break-Down Method” of depreciation is required. If the Cost Approach is secondary and used only for support or valuation of minor improvements, the simplified “Age/Life Method” for depreciation can be used. Each of these will be examined later. The following are general terms you need to understand:

Physical Deterioration

Physical Deterioration: This category is the actual wear and tear on the improvements. All the physical components of the structure fall into one of three categories: deferred maintenance, short-lived components, and long-lived components. Deferred maintenance is curable whereas short-lived and long-lived items are considered to be incurable. Deferred maintenance items are those items that are in immediate need of repair and

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depreciation is based on a cost to cure. Short-lived items are those items that are not ready to be replaced on the date of value, but will be in the foreseeable future. These items typically have a shorter economic life-span than the structure to which they are attached. Long-lived items include all those components of the structure not treated as deferred maintenance or short-lived items.

Deferred Maintenance (Curable): Deferred maintenance refers to items that need immediate attention or repair as of the date of the appraisal. The items must be replaced or repaired for the improvement to function as designed. Deferred maintenance is measured as the cost to cure or to restore the item to a new or reasonably new condition. Deferred maintenance items are considered to be totally deteriorated. Items of deferred maintenance noted in this report are .

Short-Lived (Incurable): Short-lived incurable refers to those items that are not ready to be replaced as of the date of the appraisal, but will be replaced in the foreseeable future. These items are not 100 percent depreciated, but are expected to deteriorate 100 percent before the end of the improvement's total economic life. These items typically have a shorter economic life than the overall structure. Short-lived incurable items noted in this report are .

Long-Lived (Incurable): Long-lived incurable are items not treated as deferred maintenance or short-lived incurable. These are items that do not need to be cured or replaced in the foreseeable future. As previously mentioned in the Improvement Description section of this report, the subject building was constructed in the year . The building is approximately years of age (actual). The improvements (have/have not) been adequately maintained and are in condition. Incurable physical deterioration can be measured using an age/life formula. The improvements are considered to have an effective age of years and a total economic life of years. The effective age is based on the condition and utility of the structure as well as market perceptions. Calculation of physical incurable deterioration is as follows:

Effective Age (Years) ÷ Economic Life (Years) = % Depreciation

As stated, physical deterioration relates to the wear and tear of the improvement. Physical deterioration is classified as either “curable” or “incurable”.

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- (1) **Physical Curable**—These are items of deferred maintenance such a paint, replacing screen door, “worn-out” floor covering, etc. The depreciation is based upon a “cost to cure” as of the date of the appraisal. Typically, if the cost is greater than the value added, the cure will not be recognized, but if curing the item allows other items to maintain their value, the cost to cure may be appropriate.
- (2) **Short-Lived Items (Incurable)**—Short-Lived items are those that have shorter economic life than that of the main structure or the “skeleton” and are not ready to be replaced on the date of the appraisal. Typical items that you may consider would be the roof, floor coverings, central air/heat, kitchen appliances, etc. These items will be depreciated at different rates also.
- (3) **Long-Lived Items**—This is usually considered to be the “skeleton” structure. You need to show the actual age as well as effective age (how old the structure appears to be). If effective age is different than actual age, you must provide an explanation as to why—what makes the difference in age. Has the house been remodeled, renovated or what? As shown, the depreciation for Long-Lived is based on a straight-line age/life basis ($\text{Effective Age} \div \text{Economic Life}$). Be careful of “double-depreciation” for Long-Lived Items. Items that you recognized as Physical Curable and Short-Lived need to be deducted from the cost new prior to estimating the depreciation for Long-Lived.

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Functional Obsolescence

Functional Obsolescence: This category deals with inefficiencies applicable to the improvement caused by a flaw in the structure, materials, or design of the improvement. Functional obsolescence, which may be curable or incurable, can be caused by a deficiency, which means design or utility is below the normal market standards, or by a superadequacy, which means the design or utility exceeds the normal market standards. Items of functional obsolescence are noted as follows:

Curable: ☐ 
Incurable: ☐ 

As stated, Functional Obsolescence is a loss in value to the improvement due to design or style and the utility of the improvement. The property may be overimproved or underimproved. Functional obsolescence may be curable or incurable.

- (1) Curable—Functional Obsolescence curable are items that can be cured as of the date of the appraisal. You must test in the market if the cure is feasible, i.e. cost to cure should be equal or less than the value added by the cure. The cost to cure must consider all costs, tearing out and removal plus replacement of item being cured less any salvage value. The steps in estimating functional obsolescence is as follows:

- (a) Cost of existing item
- (b) Less depreciation previously charged
- (c) Plus cost to cure or value of the loss
- (d) Less cost if installed new
- (e) Equals depreciation for functional obsolescence Examples are as follows:

- (1) Curable caused by a deficiency (add A/C)
 - (a) Cost of existing item \$ -0-
 - (b) Less depreciation previously charged \$ -0-
 - (c) Plus cost to cure or value of loss \$12,000
 - (d) Less cost if installed new \$10,000
 - (e) Equals depreciation \$ 2,000
- (2) Curable caused by a deficiency (replace A/C)
 - (a) Cost of existing item \$ 8,000
 - (b) Less depreciation previously charged (25%) (\$ 2,000)
 - (c) Plus cost to cure or value of loss \$13,500
 - (d) Less cost if installed new \$10,000
 - (e) Equals depreciation \$ 9,500(\$6,000+\$3,500)
- (3) Curable caused by a superadequacy
 - (a) Cost of existing item \$40,000
 - (b) Less depreciation previously charged \$12,000 (30%)
 - (c) Plus cost to cure or value of loss \$19,000
 - (d) Less value if installed new \$16,000
 - (e) Equals depreciation \$31,000(\$28,000+\$3,000)

- (2) Incurable—Functional Obsolescence incurable are items that cannot be cured as of the date of the appraisal. The loss in value may be recognized with a rent loss or from market evidence. Examples are as follows:

- (1) Incurable caused by a deficiency (Add A/C [\$20,000] > than loss [\$14,000])
 - (a) Cost of existing item \$ -0-
 - (b) Less depreciation previously charged \$ -0-
 - (c) Plus cost to cure or value of loss \$14,000
 - (d) Less cost if installed new \$10,000
 - (e) Equals depreciation \$ 4,000
- (2) Incurable caused by a superadequacy
 - (a) Cost of existing item \$ -0-
 - (b) Less depreciation previously charged \$ -0-

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(c) <i>Cost to cure of value of loss</i>	<i>\$40,000</i>
(d) <i>Less cost if installed new</i>	<i>\$ -0-</i>
(e) <i>Equals depreciation</i>	<i>\$40,000</i>

NOTE: It is very important to note when considering functional obsolescence if your cost new is based on replacement or reproduction cost new especially for superadequacy. In the example of the curable superadequacy, if replacement cost was used, the depreciation would be \$19,000. In the example of incurable superadequacy, if reproduction cost was used, you would have to allow for the cost less depreciation plus the value of the loss.

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External/Locational Obsolescence

External Obsolescence: This category deals with the loss in value to the structure caused by factors outside the property lines. Since real estate is fixed in location, it is dependent on its economic market. Therefore, any change in the surrounding environment that has a negative impact on the value of the property is shared by the components of that property; site and improvements. The current land value considers the effect of these external factors. This type of depreciation is always incurable, since it is not feasible or practical for the property owner to remove negative influences. The subject property (does/does not) exhibit any signs of any external obsolescence.

External obsolescence is typically considered to be incurable. Loss in value is caused by forces outside the property. Estimating economic obsolescence is by three primary methods: 1) Market-extracted; 2) Analysis of market data; and 3) Capitalization of income loss.

1) Market-extracted:	(a) Estimate cost new of improvement	\$1,000,000
	(b) Estimate the present building value	\$ 800,000
	(c) Depreciation from all causes	\$ 200,000
	(d) Deduct physical and functional dep.	\$ 90,000
	(e) Allocation to external obsolescence	\$ 110,000
2) Market data:	(a) Paired sales analysis	

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Effective Age

Example: Sale A: \$3,000/unit (Land) Sale B: \$4,000/unit (Land) Sale C: \$51,000/unit (Improved)
Sale D: \$54,000/unit (Improved)

Sale A and C in same neighborhood; Sale B and D in same neighborhood. As improved, \$3,000/unit adjustment (C & D), but only \$2,000 would apply towards the improvement (\$3,000 - \$1,000).

3) Capitalized Rent Loss:	(a) Estimate market rent	\$8.00/SF
	(b) Deduct contract rent	\$7.00/SF
	(c) Indicated rent loss	\$1.00/SF
	(d) Total rent loss of 2,000 SF bldg.	\$ 2,000
	(e) Capitalize rent loss for REL (20 yrs/10%)	\$17,000
	(f) Allocate rent loss to building (80%/20%)	\$13,600

Whatever method you use to estimate depreciation; it will be based on the effective age of the improvement. There is a difference in effective age and actual age. Actual age is the number of years that have elapsed since the improvement was constructed or the item added. **Effective age is based on the condition and utility of the improvement.** This age is based on the judgment of the appraiser and market perception. The effective age may be equal to, less than, or greater than the actual age. If the effective is different than actual age, an explanation is needed.

Economic Life/Remaining Economic Life

The economic life of a structure or component in a building is based on when the structure is completed and ends when the improvement no longer contributes to the highest and best use of the land/site. The actual physical life may be substantially longer, but what you are saying is that at some point in the future, the improvement will need to be renovated, remodeled, or perhaps demolished. All three causes of depreciation, physical functional, and external, should be considered. A good way to estimate total economic life is to study depreciation rates in the market. For example, based on sales and the extraction of depreciation from sales, you may arrive at a rate of 2.5%/year. This would indicate a total economic life of 40 years.

Remaining economic life is the estimated period of time over which the existing improvement is expected to continue to contribute to value or the highest and best use of the site. This is the time remaining from the date of value to the end of the improvement's economic life. Remaining economic life can be estimated from the market. For example, from the market you find a depreciation rate of 2% per year, which indicates a total economic life of 50 years. If your building is 10 years old, it has a remaining economic life of 40 years. You may find that as buildings get older, the depreciation rate may increase thus affecting the remaining economic life.

Other Methods to Estimate Depreciation

(1) Market Extraction: This method is based on comparable sales and extracting total depreciation from the sales. It does not separate the physical, functional, and external causes of depreciation. It is a useful tool though in measuring total depreciation from the sales to compare to the total depreciation applied to the appraised property. The steps are as follows:

- Find improved sales similar to the subject (age, condition, etc.)
- Make appropriate adjustments to the sales
- Subtract the land value at time of sale from sale price to obtain the depreciated value of the improvement
- Estimate cost new of the improvement

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- (e) Subtract the depreciated value of the improvement from cost new to arrive at a total depreciation in dollars
- (f) Divide total depreciation by cost new to arrive at a total percentage of depreciation.

Example:	Sale Price:	\$200,000
	Less Land Value:	<u>\$ 50,000</u>
	Depreciated Value:	\$150,000
	Cost New:	<u>\$275,000</u>
	Total Depreciation:	\$125,000
	Percentage:	45.46% (\$125,000/\$275,000)

If you can estimate the effective age of the improvement, say 15 years, an annual rate of depreciation can be estimated (3.03%).

You should be cautioned that in order to rely on this method, several sales of similar properties to the appraised property are required. Also, estimating the value of the site will affect the overall depreciation

(2) **Age-Life Method:** This method of depreciation is based on the effective age and the total economic life. Depreciation is estimated by dividing the effective age by the total economic life. This is a simple and easy method to apply, but it does separate the different causes of depreciation.

The method that you use to estimate depreciation depends on the type of property, improvement being appraised, and/or relevance of the Cost Approach. If the Cost Approach is not being relied on or if the improvements are auxiliary type improvements that are being added the Sales Comparison Approach, the age/life method may be appropriate. If you are relying on the Cost Approach or if it is considered to be relevant to the appraisal problem, the break-down method should be used.

- (3) Another method of estimating depreciation is the extended-life theory. This can be found within Marshall and Swift Depreciation Section 99.

This method uses the estimated economic life and life expectancy and matches with the estimated depreciation. The theory is based on the newer the improvement or effective age, the less depreciation.

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Cost Approach Forms

Break-Down Method

Physical Deterioration

Building Cost - New*					
Main Area	Square Feet	X	Per Square Foot Cost	=	Total Cost New (1)
		X		=	
		X		=	
		X		=	
		X		=	
Total		X		=	
Unit Cost New (1)		/		=	

Physical Curable

*(Effective Age / Normal Life * % Observed Depreciation) X Est. Cost New = Depreciation (Curable)*

Postponable Items*	Effective Age*	Normal Life*	% Observed Depreciation	Est. Cost New	Depreciation (Curable)

Short Lived Items*

Contractors Name and Address

Total Cost New of Curable Items (2)

Total Curable Depreciation (3)

Physical Incurable

Total Cost New (1) - Total Curable (2) = Cost New Bldg. Remaining (4)

Total Cost New (1)	Total Curable (2)	Cost New Bldg. Remaining (4)

*Effective Age / Economic Life * % Depreciation (5)*

Actual Age*	Effective Age*	Economic Life Total*	% Depreciation (5)

Cost New Bldg. Remaining (4) X % Depreciation (5) = Incurable Depreciation

Cost New Bldg. Remaining (4)	% Depreciation (5)	Incurable Depreciation

Building

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Cost Approach

Cost New		
Less Depreciation		
Physical		
Curable		
Incurable		
Functional		
Curable		
Incurable		
External		
Total Depreciation		
Depreciated Before Value		
Unit Value: Depreciated Value	Divided by	Sq. Ft. = \$ / SF

Building

- (1) This is the total depreciation from all causes.
- (2) After you have calculated the per SF depreciated value, it is advisable to check the market to see if your depreciation is fairly accurate and reliable.

Age/Life Method

Cost Schedule-Property Before									
Main Improvements	Size	Unit	Rate	PSF	Cost New	Less	Depreciation	Total	
						Less			
						Less			
Subtotal Main Improvements									
Site Improvements	Qty.	Unit	Rate	PSF	Cost New	Less	Depreciation	Total	
						Less			
						Less			
						Less			
Subtotal Site Improvements									
Total Cost New									
Total Depreciated Value of Improvements									
Plus (and additional items):									
Plus: Land Value									
Indicated Value Of Property Before Via Cost Approach									
									R/O

Cost Schedule-Property After									
Main Improvements	Size	Unit	Rate	PSF	Cost New	Less	Depreciation	Total	
						Less			
						Less			
Subtotal Main Improvements									
Site Improvements	Qty.	Unit	Rate	PSF	Cost New	Less	Depreciation	Total	
						Less			
						Less			
						Less			
Subtotal Site Improvements									
Total Cost New									
Total Depreciated Value of Improvements									
Plus (and additional items):									
Plus: Land Value									
Indicated Value Of Property Before Via Cost Approach									
Difference In Before and After by the Cost Approach									

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- (1) The Age/Life Method is used by most appraisers due to be easily explained and address all the components of the improvements to include the main improvement and any site improvements.

For those familiar with excel and creating forms, a good example to the elements of the Cost Approach is shown as follows. The example follows current MDOT forms with some minor exceptions. This “form” is contributed by a contract appraiser and was easily followed and understood. Also, it is helpful that the following utilize excel which does most calculation for you if you enter the correct formula.

After an inspection of the real property improvements of the subject property and in line with the scope of work from the client, the appraiser referenced *Marshall Valuation Service (February 2025 Update)* in the determination of unit values for the respective components of the real property improvements. These referenced high and low values, the appropriate adjustments for locality and time, and the referenced pages are illustrated in the following chart.

Marshall and Swift (Most Recent)									
Material	Unit	Section	Page	Low	High	Local Multiplier	Time Multiplier	Adjusted Low	Adjusted High
Main Building	SF			\$	\$	0.89	0.99	\$	\$

Site Improvements - list	SF			\$	\$	0.89	0.98	\$	\$
	SF			\$	\$	0.89	0.98	\$	\$
	Each			\$	\$	0.89	1.09		\$
	Each			\$	\$	0.89	1	\$	\$

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Using these ranges of values and based on observations during the inspection along with contractor values and knowledge and experience from previous projects, the appraiser's adopted opinions of unit value are indicated in the following chart:

Material	Unit	Marshall Valuation - Low	Marshall Valuation - High	Contractor Costs	Min	Max	Avg	Adopted Unit Value
Main Building	SF	\$	\$	N/A	\$	\$	\$	

Site Improvements - list	SF	\$7.93	\$14.27	N/A	\$7.93	\$14.27	\$11.10	\$14.00
	SF	\$7.12	\$11.16		\$7.12	\$11.16	\$9.14	\$10.00
	Each	\$453.04	\$4,486.71	N/A	\$453.04	\$4,486.71	\$2,469.87	\$4,000.00
	Each	\$6,096.50	\$7,654.00	\$9,600.00	\$6,096.50	\$9,600.00	\$7,783.50	\$9,600.00

Depreciation Estimate

	Actual Age	Effective Age	Expected Life	Age/Life Depreciaton	Extended Depreciation	Adopted Depreciation
Main Building	3	3	40	8%	3%	5%
Site Improvements - List	3	3	20	15%	10%	15%
	3	3	20	15%	10%	15%
	3	3	20	15%	10%	15%
	3	3	20	15%	10%	15%
	3	3	14	21%	10%	15%
	3	3	17	18%	10%	15%
	3	3	20	15%	10%	15%
	3	3	20	15%	10%	15%
	3	3	20	15%	10%	15%
	3	3	5	60%	N/A%	50%

As you can see in the above example, the appraiser utilized both the age/life method and the extended life theory and adopted a value to be utilized.

You may have other forms of depreciation as discussed above. Functional Obsolescence and External Obsolescence are difficult to prove and within a court setting can be very difficult to explain. However, this does not preclude you from considering these items of depreciation. The above example was of a building only 3 years of age and didn't exhibit functional or external obsolescence; however, these items were explained within the appraisal report.

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COST SCHEDULE-PROPERTY BEFORE								
Main Improvement								
Main Building	Sq. ft.	@	\$	Per SF	Cost New \$	Less	Depreciation 5%	\$
Subtotal Main Improvement								
					\$			\$
Site Improvements - List								
		@		SF	\$	Less	15%	\$
		@		SF	\$	Less	15%	\$
		@		SF	\$	Less	15%	\$
		@		SF	\$	Less	15%	\$
		@		SF	\$	Less	15%	\$
	1	@		Each	\$	Less	15%	\$
	1	@		Each	\$	Less	15%	\$
	1	@		Each	\$	Less	15%	\$
	1	@		Each	\$	Less	15%	\$
	1	@		Each	\$	Less	50%	\$40
Subtotal Site Improvements					\$			\$
Total Cost					Rounded \$			\$
Total Depreciated Value							Rounded	\$
					Plus 10% Entrepreneurial Profit		Rounded	\$
Land								
<i>Plus:</i> Land Value Before					@	\$	PSF	\$
Before Land Value in Fee							Rounded	\$
Land Subtotal								\$
INDICATED VALUE OF PROPERTY BEFORE VIA COST APPROACH								Rounded <u>\$</u>

Repeat for remaining improvements. Some improvements might have been in the acquisition area and not shown.

The above example was based on a building that was only 3 years old; hence, there was no deferred maintenance or short lived items to consider within the main improvement. If these items exists, they can easily be considered with the above reference.

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INCOME APPROACH

The Income Approach recognizes the income-producing capabilities of the properties and either through Direct or Yield Capitalization, this income is converted into value. The “Real Property Appraisal Report of Improved Property” provides only for the very first step in this process - estimating potential gross income, expenses, and net income. The Income Approach is more complicated than the other approaches to value, and there are various methods, techniques, and procedures that can be used to arrive at an estimate of value by this approach. Therefore, it is left up to the discretion of the appraiser as to which method or technique is used. This approach should be used if the property is leased. It must be used to establish the allocation of interest of the lessor (leased fee) and lessee (leasehold.)

Definitions

In order to appropriately apply this approach, there are a few definitions that the appraiser must have knowledge and understanding of:

- (1) Lease: A written agreement in which the rights to use and occupy the land/improvements are transferred from the owner to another for a specified period of time in return for a specified rent.
- (2) Lessor: Landowner
- (3) Lessee: Tenant
- (4) Leased Fee: Lessor's interest
- (5) Leasehold: Lessee's interest
- (6) Types of Rent
 - (a) Flat – payments are level throughout the lease period
 - (b) Variable – payments vary as specified in the lease or based on an index
 - (c) Step-up or Step-down – payments change at one or more points during the lease term.
 - (d) Revaluation – rental payments based on the value of the property
 - (e) Annual increase – payments increase on an annual basis perhaps based what is specified in the lease
 - (f) Percentage – rental payments based on a percentage of sales or productivity
 - (g) Overage – percentage rental payment over and above the guaranteed minimum rent
 - (h) Gross – Lessor pays all expenses
 - (i) Net — Lessee pays utilities and either taxes or insurance; Lessor pays other expenses
 - (j) Net-Net – Lessee pays utilities, taxes, and insurance; Lessor pays other expenses
 - (k) Net-Net-Net – Lessee pays all expenses except structural repairs
 - (l) Market Rent – income property would command in the open market (economic rent)
 - (m) Contract Rent – rent specified in the lease
 - (n) Excess Rent – amount contract rent exceeds market rent
- (7) Potential Gross Income – total income property would generate if fully occupied or rented
- (8) Effective Gross Income – income after deducting for vacancy and collection loss
- (9) Net Operating Income – income remaining after deducting for operating expenses
- (10) Operating Expenses – periodic expenditures necessary to maintain and operate the property
 - (a) Fixed – generally do not vary with occupancy (real estate taxes and insurance)
 - (b) Variable – vary with the level of occupancy
 - (c) Reserves for Replacement – allows for the periodic replacement of building components that wear out more rapidly than the building (short-lived

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- items)
- (11) **Income Rates** – expresses the relationship between one year's income and value of the property
 - (a) **Overall Capitalization Rate** – converts NOI into an indication of overall property value
 - (b) **Equity Capitalization Rate** – converts a single year's cash flow to equity into the equity value; sometimes referred to as the equity dividend rate
 - (c) **Discount Rate** – converts future cash flows into a present value
 - (d) **Yield Rate** – return on capital
 - (e) **Internal Rate of Return** – yield rate earned for a given capital investment over the period of ownership
 - (f) **Overall Yield Rate** – rate of return on total capital invested
 - (g) **Equity Yield Rate** – rate of return on equity capital
 - (12) **Reversion** – lump sum benefit investor receives at end of the lease
 - (13) **Direct Capitalization** – in the simplest form, converts a single year's income into the value ($I/R = V$); does not recognize separately return on and return of the capital invested
 - (14) **Yield Capitalization** – value is based on discounting future cash flows over the holding period; recognizes changes in NOI

One can see, just trying to understand the terms and when to use certain rates can be somewhat confusing as well as time consuming.

Income Approach

The Income Approach or Capitalization Approach is used primarily to estimate the value of income producing real estate. This approach consists of methods, techniques, and procedures used to analyze a property's capacity to generate income and convert that income into an indication of present value. This approach is also useful in estimating multiple interests in property. There are two basic methods typically applied: direct capitalization, which relates one year's income to value, and yield capitalization, which considers a series of cash flows including reversion over a period of time. Both methods require a study of historical income and expenses of the property.

Steps in the Income Approach are:

1. Research the income and expense data for the subject property and comparable properties.
2. Estimate the potential gross income of the property, which may include rental income plus other potential income.
3. Estimate the vacancy and collection loss.
4. Subtract vacancy and collection loss from potential gross income to arrive at effective gross income.
5. Estimate the total operating expenses for the subject which include fixed expenses, variable expenses, and reserves for replacement.
6. Subtract total operating expenses from effective gross income to arrive at net operating income.
7. Apply one of the direct or yield capitalization techniques to arrive at an indication of value.

The introduction into the Income Approach is self-explanatory and clear as to what is required. It is important to note that you cannot rely strictly upon the income of the property. If you are estimating market value, the rental income that the property should generate must be based on market rent or economic rent.

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Operating Expense Statement

Before you can estimate the value of the property, you must arrive at the net operating income that the property generates or should generate. Unless this is an *absolute net lease*, the lessor is responsible for all or some of the expenses. Therefore, you must generate an operating expense statement. A reconstructed operating expense statement represents the opinion of the appraiser of the probable future net income of the property being appraised. You should ask the owner for his/her operating expense statement so that you can analyze the expenses attributed to the operation of the property. If the owner provides you with this statement, you must make sure that you consider only the appropriate expenses in your statement. Make sure that you read the lease to obtain not only the method of the lease payments, but the timing. Also, you need to be aware of any renewal clauses. You may need to consider the renewal period(s) if the terms are favorable to the lessee. The lease contract should designate who is responsible for certain expense items. There may be expense cap or expense stop clauses. The expense cap clause requires the lessee to pay up to a certain level and then the lessor pays any additional expense. The expense stop clause requires the lessor pays expenses up to a certain level at which point expenses are passed on to the tenants. The tenant may have a *right of first refusal* or a *purchase option*. The purchase option may be defined in the lease and may have an effect on the market value of the leased fee estate.

In developing or reconstructing an operating expense statement, you must research the income and expense history of the subject property and competitive properties. Existing leases, proposed leases and asking rents need to be investigated for both the subject property and competitive properties. The vacancy rate for the subject and competitive properties must be determined. All operating expenses for the subject and competitive properties need to be investigated including any possible changes in any of the operating expenses.

Income Approach –Before Value	
Gross Income	1
Vacancy and Collection Loss	2
Effective Gross Income	3
Real Estate Taxes	4
City	5
State and County	
Miscellaneous (School, etc.)	
Insurance	
Fire and Extended Coverage	6
Miscellaneous	
Reserves for Replacement	7
Management	8
Other Expenses	9
Total Expenses Before Depreciation	10
Net Income to Property	11

Operating Expenses 4

Comments Describe methods and techniques used for the Before Value.

12

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- (1) Potential Gross Income -- rent based on the property being totally occupied as well other income that the property may generate such as parking fees, coin-operated equipment, etc.
- (2) Vacancy and collection -- many properties are not 100% occupied 100% of the time; collection loss allows for non-payment of rents or defaults on payments
- (3) Effective Gross Income – potential gross income minus vacancy and collection loss
- (4) Operating Expenses – only those expenses required
- (5) Real Estate Taxes – generally are fixed, but may vary over a period of time; you must investigate not only the current tax assessment, but study the tax assessments over a period of time
- (6) Insurance – typically fire, owner's liability, and extended coverage on the building; business inventory, business liability, and other business insurance are not charged as an expense; the insurance premiums must be shown in the statement on an annual basis
- (7) Reserves for Replacement – estimated at the anticipated cost of the replacement item prorated over its total useful life; must have a total useful life less than the structure; some items to include may be roof covering, floor covering, kitchen, bath, and laundry equipment, compressors, elevators, equipment with limited economic life expectancies, sidewalks, driveways, parking areas, exterior painting, etc.
- (8) Management – management may be considered separately or as a variable expense item; usually expressed as a percentage of effective gross income
- (9) Other Expenses (Variable) – these are expenses that vary with occupancy and may include leasing fees, utilities, payroll, cleaning/janitorial, maintenance/repair, security, supplies, etc.
- (10) Total Expenses before Depreciation – total of all operating expenses
- (11) Net Operating Income – income remaining after deducting total operating expenses from effective gross income
- (12) Comments – the net income is to be converted into value using either direct or yield capitalization. You must explain the method and techniques that you will use (will be discussed in more detail)

There are certain expenses that need to be excluded from the reconstructed operating expense statement. They are as follows:

- (a) Book Depreciation – based on historical cost or some other established figure for income tax purposes
- (b) Income Tax – based on the owner and not the property
- (c) Capital Expenditures – expenditures for capital improvements and do not recur annually
- (d) Mortgage Interest – annual debt service

Rates

Once you have arrived at the net operating income, you are ready to convert that income into value using either direct or yield capitalization. Direct capitalization convert's a single year's income into value by either dividing by an appropriate rate or multiplying by an appropriate factor ($I/R = V$; $V = I \times F$). Using a rate or a factor, an appropriate rate must be determined. There are several methods to derive an overall capitalization rate.

- (1) Comparable Sales – preferred technique; properties must be similar to the appraised property as to income generated, expenses, etc.
- (2) Effective Gross Income Multipliers – information may be available on sales and effective gross incomes but not on the other items necessary to estimate NOI
- (3) Band of Investment (Mortgage/Equity) – most properties are purchase with a combination of debt and equity; these two capital components are weighted and combined for a weighted average; $[(\% \text{Mortgage} \times \text{Annual Mortgage Constant}) + (\% \text{Equity} \times \text{Equity Dividend Rate})]$
- (4) Band of Investment (Land/Building) – similar to mortgage/equity, but now

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considering the physical components; $[(\% \text{Land} \times \text{Land Rate}) + (\% \text{Building} \times \text{Building Rate})]$

- (5) Debt Coverage Ratio – this is the rate of NOI to annual debt service; the OAR is found by $(\text{DCR} \times \text{Annual Mortgage Constant} \times \% \text{Mortgage})$

Residual techniques can be used to estimate the value of the property. If the value of one of the physical components or capital components is known, the second can be found by using the appropriate residual technique. The difference is that an overall rate is not required, but appropriate rates for each of the components are needed. After deducting the necessary income for the known component, the residual income to the unknown component is converted into value. Steps in a residual technique are as follows:

- (1) Apply an appropriate capitalization rate to the value of the known component to derive the annual income to support that component ($R \times V = I$)
- (2) Deduct annual income for the known component from NOI to arrive at the residual income for the unknown component
- (3) Capitalize the residual income at an appropriate rate to derive a value for the unknown component
- (4) Add the values of the known component and the residual component to derive a total property value

Where direct capitalization converts a single year's income into value using a rate or factor, yield capitalization converts a series of future cash flows over time into value. The cash flows to consider are the periodic income streams and the reversion. These cash flows are discounted at an appropriate yield rate and are often referred to as *Discounting Cash Flow Analysis*. This particular method is appropriate when the periodic payments vary and there is an estimated holding period.

The preceding discussion of the Income Approach applies to both the Before and After values. If the Income Approach is used to estimate the After Value, the appraiser must take great care to make sure that there is not "double-dipping" in the recommended compensation.

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RECONCILIATION

Final Reconciliation Of Value			
	Before	After	Difference
Sales Comparison Approach			
Cost Approach			
Income Approach			

Reconciliation	<i>Explain the appropriateness of the approaches, the accuracy of the data and calculations, and the quantity and quality of the data presented relative to the scope of the assignment and the specific appraisal problem.</i>

The difference between the Fair Market Value of the whole tract and the remainder is _____ \$
as of _____, and is my opinion of just compensation, for the acquisition of the real property rights described
in this appraisal report.

Perhaps one of the most important areas of the report, and perhaps most “neglected” is the reconciliation. This is the last phase of the reporting process, and the last opportunity the appraiser has to fully explain the final estimate of value. Reconciliation is not merely informing the user or reader that a certain approach to value was relied on or considered the best—that may be obvious. The appraiser “DOES NOT AVERAGE.” Reconciliation is a recapitulation of the appraisal report. The reconciliation is to reach a final opinion of value. The appraiser’s judgment, experience, and proper application of the approaches to value are critical in reaching this final estimate of value. The appraiser should reexamine the entire appraisal. The appraiser should not only search for mathematical mistakes, spelling, or typographical errors, but numerous questions should be asked such as:

- (1) Was there adequate data?
- (2) Is the data pertinent and authentic?
- (3) Did the data available lead to a logical conclusion?
- (4) Did the methods and techniques used apply to the appraised property?

In the reconciliation process, the appraiser must consider the appropriateness of the approaches to value; the accuracy of the data and adjustments made; and the quantity and quality of the evidence available to support the final estimate of value.

If the appraisal problem involved land only and only one approach to value was used, the reconciliation may be fairly short and obvious as to what needs to be said. But even then, the appraiser should provide some thought and reasoning as to why the particular approach was used and why the others were not. A discussion of the appraisal problem would be appropriate as well as the quality and quantity of data used to estimate the land value.

If there were damages to the remainder, the appraiser should discuss what damages were considered (severance or cost to cure) and how the damages were supported. Questions that should be considered if land only are:

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- (1) Were there an adequate number of sales?
- (2) Are the sales comparable?
- (3) Are adjustments based on market evidence?
- (4) Did the sales indicate a wide range in value?

A very simple reconciliation for land only may be as follows:

The appraisal problem involved the partial acquisition of 0.50 Ac.+/- from a 50 Ac.+/- tract of land. In the valuation of the property prior to the acquisition, the Sales Comparison Approach was the only approach to value considered to be appropriate. Being a vacant tract, the Cost Approach and Income Approach were not considered applicable or necessary. In the Sales Comparison Approach, only 3 sales were directly compared to the appraised property. Although there were other sales available, these sales were considered to be the most comparable and in the opinion of the appraiser provide a reasonable and reliable estimated market value of the appraised property.

In the after condition, the remaining 4.5 Ac.+/- was considered to have the same unit value as before. Although not directly compared, the sales used in the before would apply to the remainder. The property is presently used for pasture. A pond was included in the acquisition area, and a cost to cure or replace the pond was estimated. Mr. Pond Digger provided an estimate for the construction of the pond which was supported by costs from the local USDA Soil Conservation Service office. Also, fencing along the proposed right of way was recognized. The cost to re-fence was from an estimate provided by Mr. Fence Builder. Both cost estimates are considered to be reliable.

If the appraisal involves improvements, you may have used more than one or perhaps all three approaches to value. Again, the appraiser must ask himself/herself certain questions:

- (1) Were there an adequate number of sales?
- (2) Are the sales comparable?
- (3) Were the adjustments made supported with market evidence?
- (4) Did the sales indicate a wide range in value?
- (5) Is the land value well supported?
- (6) Are the cost estimates reliable?
- (7) Were depreciation estimates explained and supported?
- (8) Were there adequate rental comparables?
- (9) Was the owner's income properly recognized?
- (10) Was the total operating expenses properly recognized?
- (11) Was the appropriate capitalization method applied?
- (12) Was the appropriate capitalization rate supported?
- (13) If more than one approach used, are they consistent with each other?

Reconciliation when more than one approach was used may be as follows:

The appraisal problem involved the valuation of a small office building on an improved 1 Ac.+/- lot. In the valuation of the subject property, all three approaches to value were considered. First, the land value was estimated as if vacant and ready to be developed to its highest and best use. The Sales Comparison Approach was the only approach to value considered. This approach to value is considered to be the most reliable for the valuation of land only. Next, the subject property was appraised as improved. In the application of the Sales Comparison Approach, 3 improved sales were compared to the subject property. The sales required substantial adjustments due to size and location. The market activity for sales similar to the subject appears to be very limited, and the sales used were considered to be the best available. The building is only 6 months old. A replacement cost new was obtained from a local contractor and/or Marshall Valuation. Being a new building, very little physical deterioration was noted. Rental income was obtained both from the subject property and from other rental properties in the area. The value in the Income Approach was based on direct capitalization using a building

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residual technique. The net income was based on that generated by the subject and is supported by other rentals in the area. Of the three approaches to value, the Sales Comparison Approach is considered the least reliable due to lack of sufficient market evidence. The Cost Approach is considered to be the best indication of value due to the building being new and the land value is well-supported. The Income Approach, although relevant, provides a lower estimate than the Cost Approach, but supports the final estimate of value.

SUMMARY

This section provided information on the before and after valuation of land only or improved properties. The primary emphasis should be on “explanation.” Nothing is better than reading a report that is very well explained, documented, and supported. The appraiser should realize that in providing an in-depth explanation (description, analysis, documentation,) the more likely there will be fewer questions or concerns from the reviewer. The more experienced appraiser may find it easier to provide a description of the property in a “narrative” explanation instead of following the “list.” If so, he/she must make sure that all the items are addressed in the narrative description. The appraiser is encouraged to use his/her thought process and not look for “filling in the blanks.”

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SECTION 3

UNECONOMIC REMNANT REPORT

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APPRAISAL GUIDE

INTRODUCTION

The “Uneconomic Remnant Report” is not considered to be an appraisal or valuation of land or improvements. While there are some states that do not require a separate report for the uneconomic remnant, one is required by MDOT. All calculations as to the value of the remnant have been made in the appraisal of the parent tract. This report is only an extension of the appraisal of the parent tract.

TITLE PAGE

UNECONOMIC REMNANT REPORT	
Parcel Number	_____
Owner	_____
Vacant / Occupied / Leased	_____
County	_____
Project Number	_____
FAP Number	_____
Project Description	_____
Report Date	_____
Report Requested For	_____
This report is associated with the appraisal report prepared for Parcel Number _____	

As you can see, the title page is very similar to the other reporting formats. You will notice that there is not an effective date of value only a “Report Date”. Make sure that the parcel number for the “X” corresponds with the “W” parcel.

Area of Whole Tract	1
Area of Remaining Tract	2
Area to be Acquired	1

When completing the dialogue box, you will be required to enter the size of the uneconomic remnant.

- (1) Area of the Whole Tract: This is the total size of the remnant, not the parent tract
- (2) Area of Remaining Tract: This should be -0- since an offer will be made to acquire the total remnant.
- (3) Area to be Acquired: This should be the same as the whole tract.

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SITE AND IMPROVEMENT DESCRIPTION

Site & Improvements Description	
Comments:	Brief description of the uneconomic remnant

Although this is somewhat repetitive since a description of the remnant including any improvements should have been made in the appraisal of the parent tract, a good description of this remnant is required. In the Assumptions and Limiting Conditions, the statement is made that reference to the appraisal of the parent tract is required. It is recommended that you enter that statement again and actually state the parcel number of the parent tract.

This uneconomic remnant is a triangular shaped parcel containing 0.10 Ac.+/- and is located in what was originally the northeast corner of the parent tract and east of Sta. 150+00. This remnant will not have access to the new facility, has very little depth, and is of little value or utility to the owner. As addressed in the appraisal of the parent tract, there is only one abutting owner, and based on my analysis, this remnant would not offer any real benefit to the abutting owner. Due to its size, shape, and lack of access, it was considered to have very little value in the marketplace. Therefore, a nominal value of \$500 was assigned to this uneconomic remnant. For complete understanding of the report, reference to the appraisal of the parent tract, Parcel 001-00-00-W of this project, is required.

Items of Real Property on the Uneconomic Remnant (include any tenant owned realty)

Items of Personal Property on the Uneconomic Remnant (not included in value of the real estate)

Although perhaps rare, there may be times that you have improvements remaining on the remnant. The improvements may be part of the real estate or may be personal property. You need to list any improvements remaining.

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DISTRIBUTION OF FINAL ESTIMATE OF VALUE

Fee/Leased Fee Interest								Acre(s) ▼
Parcel	Acq. Area	HBU	Land	Improvements		Damages		Total
				Item	Value	Item	Value	
								\$0
								\$0
								\$0
								\$0
								\$0
Totals	0.000		\$0		\$0		\$0	\$0

Quit-Claim Interest / Leasehold								
Parcel	Acq. Area	HBU	Land	Improvements		Damages		Total
				Item	Value	Item	Value	
								\$0
								\$0
								\$0
								\$0
								\$0
Totals	0.000		\$0		\$0		\$0	\$0

Total of all Interests								\$0

- (1) You may have more than one uneconomic remnant. You will need to list each separately with the value attributed to each one.
- (2) List all improvements separately with their corresponding value. If it has a -0- value, enter that amount
- (3) Damages probably does not apply.
- (4) If the property is rented or leased, there may be a separate "X" deed for the tenant. Make sure you allocate for this interest.

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SECTION 4
EXCESS PROPERTY REPORT

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CERTIFICATE OF VALUE

I have checked the appropriate box below. 1

- ☐ Based upon the exercise of my professional judgment and my independent appraisal of the fair market value of the designated larger parcel, it is my opinion that the excess property tract contributes to the fair market value of the larger parcel in the amount of \$ [] as of 7/25/2005. 1
- ☐ Based upon my independent appraisal and the exercise of my professional judgment, it is my opinion that the fair market value of the excess property tract is \$ [] as of 7/25/2005. 2

- (1) If the “Excess Property” is assembled with an abutting property, this box will need to be checked, and appropriate value entered.
- (2) If the “Excess Property” has been valued as a standalone property, this box will need to be checked, and appropriate value entered.

ASSUMPTIONS AND LIMITING CONDITIONS

Following, if applicable, are all extraordinary assumptions and/or hypothetical conditions that affected the analyses, opinions, and conclusions of this report which are explained in the scope of work:

Determination of the larger parcel necessary for this appraisal assignment requires adopting the hypothetical condition that the larger parcel exists as a single ownership. (Only applicable if the larger parcel is greater in size than the excess property tract.)

You are making an assumption that the excess property is to be assembled with an abutting property. That is what the value of the property is based on. This may or may not happen. There may be more than one abutting owner that the excess property would provide additional utility. You may consider one abutting property over the other, which may not be the one that actually purchases the property.

SCOPE OF WORK

Intended Purpose and Use of the Appraisal Report

The purpose of the appraisal is to render an opinion as to the Fair Market Value of the specified real property as of the stated date. The appraisal is to be used by the Mississippi Department of Transportation to establish a Fair Market Value for the disposal of the specified real property. There are no other intended uses.

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LARGER PARCEL AND HIGEST AND BEST USE

Declaration of the Larger Parcel

There are three conditions or tests that are considered in determining the larger parcel, unity of ownership, unity of use, and contiguity. In certain instances, the larger parcel may not include all the lands that are contiguous and under identical ownership. In determining the larger parcel to be appraised, unity of ownership is based on the use of a hypothetical condition. In determining the larger parcel, the following is noted:

Larger Parcel(s) Summary	(Dimensions, Size, and Use)

The procedure used in this report to estimate highest and best use of the subject site was to consider, in sequence, the site's utility, its legal use, its possible and most feasible use, and, finally, the optimum or highest and best use.

Highest and Best Use Analysis	(Address physically possible, legal permissibility, economic feasibility, maximal productivity, for the larger parcel as applicable)

If you don't have a stand-alone tract, the forms don't allow you to address or describe the abutting property which you considered the excess property to be assembled. This is addressed in the larger parcel discussion. Please provide a detailed description of the abutting property within this discussion so the reviewer can understand the property from which the excess property is being assembled.

These two sections are perhaps the most important part of the appraisal. If you cannot declare what is the larger parcel, how do you know what you are appraising; what is the proper highest and best use; what sales are applicable; and what is the final estimate of market value?

- (1) In the Larger Parcel declaration, you are going to have to make the decision to if the property is a "stand-alone" parcel or if it is to be "assembled" with an abutting property. If it is a stand-alone property, the "drop-down" option "is not" needs to be entered (no hypothetical condition.)
- (2) If the excess property is to be assembled with an abutting property, the unity of use factor is very important. Assemblage is the process of combining two or more tracts into one ownership or use. "Plottage" occurs when two or more tracts are combined to produce greater utility than as individual tracts. A plottage value is not always created when two or more tracts are combined. As appraisers, we often use the term "plottage value" incorrectly. There should be an increment of value created when properties are assembled for there to be plottage value.
- (3) The Highest and Best Use analysis is based on the Larger Parcel, either "stand-alone" or "assemblage." If the Larger Parcel is assemblage, it is suggested that a discussion of the "excess property" as a stand-alone parcel be made. Address the physical characteristics.

The concept of identifying the Larger Parcel as a "stand-alone" property or being "assembled" with other property may be difficult to understand at first. The following are examples that you may face:

- (1) Assume that the "Excess Property is an old maintenance barn site. It is 1 Ac. in size, 200 feet of frontage on a paved highway, zoned commercial, and has an old wood frame building with a metal skin (poor condition).

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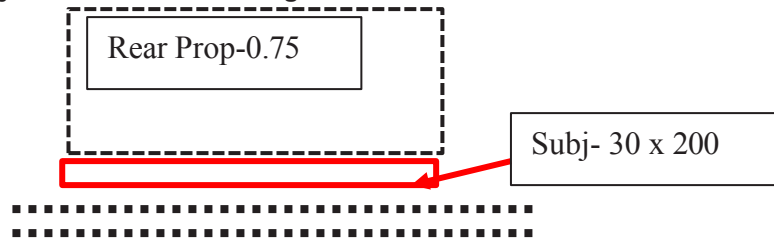
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Solution: This property would perhaps be a stand-alone property due to its size and location with the building having very little value. There may be other factors that would contradict this that would need to be investigated.

- (2) Assume an old project office to be disposed of. Property is located within the city limits and zoned for commercial use. Lot is 100' x 300'. The building, although showing some age, is in fair condition. Over the last few years, it has been leased for office purposes.

Solution: Again, probably a standalone property that would require the valuation of the improvements.

- (3) Assume the "Excess Property" is a small 30' wide strip and is abutted on the rear by a 0.75 Ac. lot (See sketch). The subject property, due to depth, would probably not be a standalone property. The property is located in a developing commercial area. Typical commercial lots are from 0.50 Ac. to 1.0 Ac. and have reasonable frontage. The abutting property does not have frontage but has access via an easement.



Solution: Probably in this situation, you are going to have to consider assemblage and see if there is any "plottage value." For example, the rear property may have a value of \$1.50/SF presently, but assembled, the total property with road frontage may have a value of \$2.00/SF.

Value of Larger Parcel: 38,670 SF @ \$2.50/SF =	\$81,675
Value of Abutting Property: 32,670 SF @ \$1.50 =	\$49,000®
Value of Excess Land:	\$32,675

- (4) Assume the same scenario as in 3, but the right of way is "controlled access". The rear property would not be gaining access to a road. It is typical in size to other tracts.

Solution: The "Excess Property" may not have any value to the abutting owner because of lack of additional utility. Due to size and shape, it does not appear to have any value in the marketplace. The appraiser would have to consider it as a "stand-alone" property with maybe a nominal type of value.

There are times when the surplus property is not a stand alone property and has to be assembled with an adjoining property. As discussed, the surplus property may not contribute the same as the adjoining property due to limited use or marketability. In this case, you may wish to consider a discount for the fact the surplus property has a limited market as compared to the adjoining property.

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RECONCILIATION

Final Reconciliation of Value			
Approaches to Value	Fair Market Value of the Appraised Larger Parcel	Allocation of Larger Parcel Fair Market Value	
		Adjoining Property	Excess Property Tract
Sales Comparison Approach			
Cost Approach			
Income Approach			

Reconciliation	<i>Explain the appropriateness of the approaches, the accuracy of the data and calculations, and the quantity and quality of the data presented relative to the scope of the assignment and the specific appraisal problem.</i>

Check statement below that applies and complete as necessary.

☐ The difference between the Fair Market Value of the larger parcel and the adjoining property is \$ _____ as of _____ and is my opinion of the Fair Market Value of the excess property tract for disposal purposes.

☐ The estimated Fair Market Value of the specified real property that is the subject of this appraisal is \$ _____ as of _____.

- (1) The information presented here is the same that will be shown in the summary of facts. If the excess property is the larger parcel (stand-alone), the "Fair Market Value of the Appraised Larger Parcel" and "Excess Property Tract" will be the same. If the excess property is assembled with an abutting property, the "Excess Property Tract" will be the "Fair Market Value of the Appraised Larger Parcel" less the "Adjoining Property."
- (2) Only one of the boxes needs to be checked. The first box is checked if the excess property is assembled. The second box is checked if the excess property is a stand-alone parcel.

SUMMARY

The "Real Property Appraisal Report of Excess Property" is to be used when MDOT wishes to dispose of real estate owned. Although much of the content within the report is very similar to the valuation of land or land and improvements, the valuation of excess property can be unique. Hopefully, this particular reporting format has addressed the issues. Some people have stated that basically the valuation of excess property is a "reverse before and after." This is true when the excess property is assembled with an abutting property and plottage value has been created. There are times though that the excess property will be a "stand-alone" parcel and will need to be addressed as such. It is very important for the appraiser to be able to identify the "Larger Parcel" and the Highest and Best Use of the Larger Parcel. Combining two or more parcels does not always indicate an increment in unit values.

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SECTION 5

COMPARABLE SALES DATA

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INTRODUCTION

Collecting and analyzing properties that have sold, listed, rented, or leased is perhaps the most important process in arriving at an estimate of value for the property being appraised. Typically, for a sale to be considered “comparable,” it should have degree of similarity to that of the property being appraised—not too remote in time, size, shape, location, etc. In a typical right of way project, the appraiser may need to collect a broad range in the type of sales needed to appraise the properties involved in the acquisition process. Obviously, the more data you have for a particular type of property, the more reliable your estimate of value should be, assuming that proper adjustments have been considered and made. If the market activity is active, you may not have to search too far back in time or there may be an abundance of data within the immediate area or neighborhood. But, if the market activity is relatively slow, you may need to search further back in time and expand the area of your search. Your search should include not only properties that have sold, but properties that are leased also. Contracts, listings, and offerings may not be relied on, but do provide some information as to the action of buyers and sellers in the market.

MDOT currently utilizes PTS for entering sales data. Some of the fields are redundant and some of the fields don’t print when the sales are printed and shown in the Market Data Book.

Although some fields may be redundant and others don’t print, the information should be completed as completely as possible.

Example: there is a field for address, location, and directions. Most vacant land sales don’t have a physical address. To assist the reviewer in locating the sales on of these can show longitude and latitude. This would allow the sales to be plotted using mapping software that will take you to the property. Some appraisers provide an electronic map to be utilized for this purpose; however, when one is not provided a map can be easily developed.

Example: when the sales sheet is printed, only the zoning class is shown and not the zoning code. The zoning code is an important consideration when selecting the sales to be considered during the valuation process. Since this is not printed, you may wish to add the zoning code under comments. Some counties don’t have zoning regulations; hence, you can state so as well. When the selected sales are printed comments will show up on the printed sheets.

If you have an improvement and aren’t able to measure the improvement a copy of the tax sketch would be helpful and can be entered under images.

When printing the sales for the completion of the Market Data Book, please don’t forget to add the deed behind each sale.

I have found it helpful to have a folder with all the needed information to be entered for each sale or a folder for each item that will need to be entered. Entering sales into PTS can be a tedious process, but a requirement.

Once the brochure is completed a copy should be sent to the reviewer for approval to begin contacting property owners. The brochure should be supplemented as needed with the final product delivered by review to MDOT on a jump drive after all court cases have been completed.

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The following discussion will address key issues about comparable sales.

Each comparable sale that is used in the sales comparison approach to value must be analyzed for differences and similarities between it and the property that is being appraised. Comparable sales must be adjusted to the subject property - except for sales and financing concessions, which are adjusted to the market at the time of sale. The appraiser must make appropriate adjustments for location, terms and conditions of sale, date of sale, and the physical characteristics of the properties. "Time" adjustments must be representative of the market and should be supported by the comparable sales whenever possible. The adjustments must reflect the time that elapsed between the date of sale and the effective date of the appraisal for the subject property. The subject property is the standard against which the comparable sales are evaluated and adjusted. Thus, if an item in the comparable property is superior to that in the subject property, a negative adjustment is required to make that item equal to that in the subject property. Conversely, if an item in the comparable property is inferior to that in the subject property, a positive adjustment is required to make that item equal to that in the subject property. If an item in a comparable property is equal to that in the subject property, no adjustment is required.

There are areas of the data sheet that do not require much explanation, while other areas do.

- (1) PTS will automatically populate an ID for each comparable sale entered; however, when printing the Property Sales Summary Table, the selected sales can be printed in a logical order such as by size and will show as No. 1
- (2) Make sure you use the date the property was conveyed and not the date the deed was filed. You may find that a sale may actually be recorded several years after it sold.
- (3) Make sure you have the correct Deed Book and Page Number.
- (4) The Grantor/Grantee information should be what is shown in the deed. You may want to use et ux, et vir, or et al.
- (5) Make sure you enter the City and State, although this information does not print. Again, you can enter this under comments along with a phone number
- (6) Description of Property: PTS provides sufficient information for describing the property.
- (7) Section, Township, and Range in most instances is indicated in the deed. If the legal description is lot/block, you may need to go to the subdivision maps to get the S-T-R.
- (8) **Direction: This is overlooked or not properly addressed in many instances. You need to describe how to get to the property so that the reader/user can find it without too much difficulty. The street or road address may not be sufficient. Example: "From the intersection of Highway 1 and Highway 101, go north on Hwy 1 approximately 5.5 miles; turn left (west) on X Road and go approximately 1.3 miles to a fork in the road; bear to the right on X Road and go approximately 2 miles. The property is located in the northeast corner of the intersection of X Road and Y Road. Property address is 123 X Road." As suggested earlier, a latitude / longitude can be entered under location.**
- (9) **Size:** If there is a vacant land sale, check the deed to see if the size is provided. Verify with the parties involved. If a metes and bounds description, may need to deed plot. For an improved property, unless you measure, you should state where the size of the improvement was obtained. An example I have seen utilized most often is from the notes within the MLS listing and found in the notes within PTS for an improved sale. Tax sketches could also be utilized; however, it is sometimes difficult to decipher the size of the actually heated and cooled area.
- (10) **Improvements:** Provide all the necessary data to describe the improvements.
- (11) **Grantor/Grantee/Other:** Make every effort that you can to confirm the sale with the Grantor or grantee. He/she can provide you with the most information about the property. The confirmation should not be only the sales price, but additional information about the condition of the property on the date of sale, motivation of buyer or seller, any easements, etc. The property owner may not wish to let you on the property measure and inspect the improvements involved in the transaction. Do your best to explain the purpose and need of the inspection. If you can't go inside the improvement, have the owner describe and note any improvements that have been made. Other

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confirmation may be by the broker actually involved in the sale or the closing attorney. MLS and other appraisers' files are not confirmation. Information on the MLS sheet may not be accurate. The appraiser may not have been directly involved with the transaction. However, there are times when an appraiser may have been directly involved with the transaction as well as the listing broker.

(12) The date of confirmation is required.

(13) Confirmed By: This is the appraiser who actually confirmed the sale. Entering initials is not advised as there could be more than one person on the project with the same initials.

The description of the comparable sale improvement is vital due to the fact that adjustments are made for any differences shown between the appraised property and the subject property. Time and care should be taken to make sure this page is correctly filled out.

- (1) Foundation: Most homes will either be on piers or a slab (conventional). Some homes may have a basement. If on piers, you may wish to note if wood blocks or concrete blocks.
- (2) Heated/Unheated: Your size adjustment is based on the heated area. Before including the utility room, make sure it is heated. Unheated areas may include the porches, carports/garages, and patios/decks.
- (3) Bedrooms/Baths: An accurate count of these rooms is needed. Typically, for a room to be classified as a bedroom. Closets are not mandated. Key factors to consider are egress, size, ceiling height, heating and ventilation. There is some debate as to how to classify a bathroom that has only a shower (no tub). Most would classify this as a full bath.
- (4) Carport/Garage: A carport usually has at least one open end/side where a garage will be enclosed.
- (5) Year Built: This may be difficult to obtain, but you can go through the same steps as with the appraised property (tax office info; utility company, etc.) You may wish to indicate the effective age also.
- (6) Heat/AC: Note the type of heating and cooling (gas or electric; central; central heat/window units; space heaters, etc.)
- (7) Built-Ins: Please check all the appropriate boxes.
- (8) Lot Size: Should match what is shown on the deed. In PTS this is shown under the financing information tab.
- (9) Water/Sewer: Note if there is community water and/or public sewer available. You may see that the property is on community water and has retained a water well as a back-up or for auxiliary watering of yards or livestock. This is shown in the Property Information Tab in PTS.
- (10) Interior Construction: Many homes will have different wall and floor coverings for the kitchen and bathrooms.
- (11) Roofing/Insulation/Gutters: Note the roof covering (asphalt shingles, metal, tile, etc.) You will probably need to ask the owner about the insulation (walls, ceilings, and type.) Note if there are gutters, condition, and if properly drained.
- (12) Landscaping: You may have made an adjustment or lump sum addition to your subject's land value for landscaping. The sale that you are analyzing probably has some landscaping. If you do not recognize this at some point, have you "double-dipped" on landscaping?
- (13) Porches: Note type, size, and location of porches. Also, either here or in one of the next boxes, you need to include patios and decks (type and size).
- (14) Fencing: Note if sale is fenced (type and location.)
- (15) Other Factors: May include additional items such as swimming pool, security system, driveways, walks, etc. These can be shown under special features.
- (16) You may wish to enter other improvements such as storage sheds, detached carport/garage, barns, shops, etc.

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- (17) **Floor Plan:** Make every effort to measure the improvement. If you are unable to do so, the sketch from the tax office will probably be your best source, but you need to verify the best you can so that the sketch is accurate. Note if the sketch is from the tax office or another source.

Confirmation

As stated, confirmation involves more than verifying the sales price.

Summary

The collection and analysis of sales is a time-consuming process, but without this information, the valuation process would be fruitless. Although HBU analysis is considered by some to be the “cornerstone” of the appraisal process, sales analysis is what “puts the cornerstone in concrete.” It is the appraiser’s responsibility to interpret the actions of the buyers and sellers in the market. The more sales data that you have - the more reliable this interpretation will be. In the reconciliation of value of the appraised property, you are addressing the quantity, quality, and reliability of the data used in the appraisal report. Gathering sales and analysis of such is an on-going process from the beginning of the project to the end. We are all pressed for time and “to get the job done,” but do not neglect this important step in the valuation process.

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SECTION 6

DISCOVERY MATERIAL

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INTRODUCTION

When a property has been condemned, you will be notified that you need to update your appraisal for court purposes. Besides preparing the update, you must fill out the “Discovery Material” form. The form is fairly simple, but there are a few items that need to be discussed.

Discovery Material (To be completed and submitted with the appraisal for court)				
File No.				
Project No.				
New Project No.				
County				
Property Owner's Name				
Highest and Best Use(s) before the acquisition				
Highest and Best Use(s) after the acquisition				
Before acreage		Before Value		\$
After acreage		After Value		\$
Acquisition acreage		Just Compensation		\$
Unit Value(s) adopted for the land				
Approach(es) to valuation which were utilized				
Approach to value which was adopted				
(Provide copies of the following data:				
A. Comparable sales utilized				
B. Timber estimates (if highest and Best Use is Timberland)				
C. Any cost to cure estimates utilized in this appraisal				
D. Curtilage Value (resumes)				
Allocation of just compensation:				
A. Land \$				
B. Improvements \$				
C. Damages \$				
List each element of damage and provide explanation of how these damages were measured.				
If Cost Approach was used provide the following:				
A. Cost new estimates \$				
B. Depreciation \$				
C. Value(s) of estimating depreciation \$				
Land Value(s) if present:				
Before Value \$				
After Value \$				
Difference \$				
List all on-site improvements on the property and provide a value estimate for each.				
If property is leased, provide the following: (Terms of lease, Allocation of compensation between lessor and lessee)				
File No.	Land	Improvements	Damages	Total
List all exhibits, plats and maps you would like to use in the trial of this case.				
Any other pertinent information to the prosecution of this case (Attach additional sheets if needed)				

- (1) Check Exhibit “A” to verify the property owner(s). There may have been changes since the original report. Quit-Claim interests may no longer exist.
- (2) Check the HBU (Before and After) to make sure that this is what you will testify to.
- (3) Check the acreage on the new plat. May be different than the original acreage used.
- (4) Check your math to make sure that the final estimate of Just Compensation will be the same total as in “14” at the bottom.
- (5) Show all unit values that apply, even if a particular area is not affected.
- (6) List all approaches to value used and which one relied upon.
- (7) These items will need to be attached.
- (8) Again, check with “4” and “14” to see if the totals are the same. May be a slight difference if you have a TCE or Q-Deed.

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- (9) Damages will either be severance or cost to cure. Provide an explanation as to how each damage item was recognized.
- (10) The cost new and depreciation amounts are obvious. Your depreciation will probably be the “break-down” method or “economic age-life”.
- (11) Make sure you check your math.
- (12) List all the improvements in the acquisition with a value for each.
- (13) If a written lease, it would be good idea to attach.
- (14) If you have more than one instrument such as a “T” or “Q”, you will need to enter the allocated amount for each. The sum of all instruments should be equal to the Just Compensation.
- (15) This is your opportunity to request any exhibits that you would like to use. Appraisal Maps, Construction Plans, Aerial Photos are perhaps some to consider. You will need to follow up on this request.

When completing the appraisal for court, please check the filing date as this is your effective date of value. Also, I prefer to see the filing exhibit in the addenda of the updated appraisal in lieu of the legal description as the legal description is shown within the filing materials.

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SECTION 7

WAIVER VALUATION

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INTRODUCTION

49 CFR § 24.2(a) defines a waiver valuation as “....means the valuation process used and the product produced when the agency determines that an appraisal is not required, pursuant to [§ 24.102\(c\)\(2\)](#) appraisal waiver provisions. Waiver valuations are not appraisals as defined by the Uniform Act and this part.”²² The agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and has a low fair market value, and the anticipated value of the proposed acquisition is estimated at \$15,000 or less, based on a review of available data. The representative making the determination to use the waiver valuation option must understand valuation principles, techniques, and use of appraisals in order to be able to determine whether the valuation of the proposed acquisition is uncomplicated and has a low fair market value.

Before the initiation of negotiations, the agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal or waiver valuation of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An agency official must establish the amount believed to be just compensation. (see § 24.102(d)).

The appraisal waiver provision is an option to the States. The intent of this provision was to reduce time, reduce cost, and redistribute valuation workload. With many LPA projects, the waiver valuation is an effective tool if properly addressed and applied.

WAIVER VALUATION PROCEDURES

§ 24.102(c) addresses appraisal, waiver thereof, and invitation to owner. It states as follows:

- (A) When an appraisal is determined to be unnecessary, the agency shall prepare a waiver valuation.
 - (1) Waiver valuations are not appraisals by definition in this part (See [§ 24.2](#)). Persons preparing or reviewing a waiver valuation are precluded from complying with Standards Rules 1, 2, 3, and 4 of the “Uniform Standards of Professional Appraisal Practice,” as promulgated by the Appraisal Standards Board of The Appraisal Foundation^[1] (see appendix A to this part, sections [24.102\(c\)](#) and 24.103(a).)
 - (2) Because a waiver valuation is not an appraisal, a review of a waiver valuation is not required. However, some recipients may also be subject to State laws or agency requirements to review a waiver valuation.
- (B) The person performing the waiver valuation must have sufficient understanding of the local real estate market in order to be qualified to perform the waiver valuation.
- (C) The Federal agency funding the project may approve exceeding the \$15,000 threshold, up to an amount of \$35,000, if the agency acquiring the real property offers the property owner the option of having the agency appraise the property. MDOT has adopted a \$10,000.00 limit for waiver valuations.

²² *Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended May 3, 2024*

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- (D) If the agency determines that the proposed acquisition is uncomplicated and has a low fair market value, and if the agency acquiring the real property offers the property owner the option of having the agency appraise the property, the agency may request approval from the Federal funding agency to use a waiver valuation for properties with estimated values of more than \$35,000 and up to \$50,000. Approval for using a waiver valuation of more than \$35,000, but up to \$50,000 may only be requested on a project-by-project basis and the request for doing so shall be made in writing to the Federal funding agency setting forth the anticipated benefits of, and reasons for, raising the waiver valuation ceiling above \$35,000. Within 6 months of completion of acquisition activities a close-out report measuring cost/time benefits, condemnation rate, settlement rate, and any other relevant metric which the funding agency requires to adequately document both the administrative savings and accuracy and efficacy of the waiver valuations of more than \$35,000, but up to \$50,000 shall be submitted to the funding agency.
- (E) Under [paragraphs \(c\)\(2\)\(ii\)\(C\)](#) and [\(D\)](#) of this section, if the property owner elects to have the agency appraise the property, the agency must obtain an appraisal and shall not use the waiver valuation procedures described in [paragraphs \(c\)\(2\)\(ii\)\(A\)](#) through [\(D\)](#) of this section. ²³

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APPRAISAL WAIVER VALUATION

QUESTIONS AND ANSWERS

Is the use of an appraisal waiver valuation mandatory for the acquiring agency?

The use of an appraisal waiver valuation is an option for the acquiring agency. It is not mandatory.

What factors should be considered in determining if the appraisal waiver option is appropriate?

Those interested in using the appraisal waiver option should consider whether the option is permitted under state law. The acquisition(s) in question should be simple and uncomplicated. The estimated amount of just compensation should also be below the dollar threshold set forth in the State Department of Transportation's right-of-way (ROW) manual.

Is an appraisal waiver valuation subject to appraisal review?

No. The waiver valuation is not an appraisal and is not subject to an appraisal review; moreover, the waiver valuation is not subject to the Uniform Standards of Professional Appraisal Practice.

Should appraisers prepare waiver valuations?

The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more complex work." [§ 24.102\(c\)\(2\)](#) Waiver valuations are not appraisal as defined by the Uniform Act and this part; therefore, appraisal performance requirement or standards, regardless of their source, are not required for waiver valuations by this part. Since Waiver Valuations are not appraisals, neither is there a requirement for an appraisal review.

The definition of "appraisal" in the Uniform Act and waiver valuation provisions of the Uniform Act and this part are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by appraisers by others. [§ 24.102\(d\)](#)

This question has raised a number of varying degrees of opinion. The appearance of the FHWA seems to be that they would prefer appraisers perform waiver valuations. Additionally, language was changed from development (appraisal function) and performance. USPAP states there is no jurisdictional exception for waiver valuations. The only similar situation I found as an example would be a broker who is also an appraiser is able to perform a Broker's Price Opinion (valuation service). As long as the broker doesn't misrepresent his role USPAP provides flexibility for others who have multiple professional roles.

This question should be left up to the Local Public Sponsor.

Is there an obligation to have the property owner accompany the waiver valuation preparer during the property inspection?

No. The waiver valuation is not an appraisal as defined by the Uniform Act, and therefore there is no owner accompaniment requirement.

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CONCLUSION

The waiver valuation option is a concept that Agencies can use as a timesaving and cost-saving tool. The waiver valuation is not an appraisal; therefore, the Uniform Act appraisal requirements and USPAP standards do not apply. Although an appraisal review is not required, the agency must assure that the basis for not preparing an appraisal is appropriate. The waiver valuation option is intended to streamline the process. The valuation is prepared by a knowledgeable person based on market data in the area. In most cases, market data books have been prepared by the appraisers and would be available to the agent preparing the waiver valuation. Appraisals of similar properties could also already been made from which the agent could refer to in preparing the waiver valuation. There is no specific approval for reviewing either the valuation itself or the decision to use the waiver valuation. The waiver valuation is an estimate of fair market value. The Agency determines the just compensation offer, which may not be less than the valued amount.

**CONSULTANT
CONTRACT
ADMINISTRATION**

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CONSULTANT CONTRACT ADMINISTRATION

The following procedures document the responsibilities of Right of Way Division's Consultant Contract Administration.

Please review all pertinent chapters in the Right of Way Operations Manual.

Consultants must be utilized to perform services for the Right Of Way Division (ROW) due to those services being specialized and/or due to the limited availability of Mississippi Department of Transportation (MDOT) ROW personnel to perform these services. Utilizing consultants to perform services requires those consultants to be contracted with MDOT. Right of Way consultants may perform the following types of right of way professional services: title abstracting, appraisal, appraisal review, acquisition, relocation, well services, asbestos consulting services, and asbestos abatement and structural demolition.

1. Master Contract

The consultant must be on the Master Contract list to be able to perform Right of Way services. To be considered for the Master Contract list, the consultant must respond to advertisements posted periodically. MDOT ROW Division submits an ADM-101 (Consultant Use Request Form) to begin the advertisement process. MDOT Consultant Services Unit manages the advertisement and selection process once the ADM has been submitted and approved. Once the consultants are selected, a list is provided for the Mississippi Transportation Commission (MTC) to review/approve. Once Master Contracts have been awarded to the approved consultants, ROW Division is able to utilize those consultants to perform ROW services. There is a separate Master Contract List for each of the different types of services mentioned above.

2. Work Assignment

When ROW Division requires services to be performed by a consultant on a particular project, a consultant is recommended by the Project Manager from the Master Contract List and a contract is developed, which is referred to as a "Work Assignment". The Work Assignment requires MTC approval if the total maximum allowable cost is \$250,000 or more. Once the Work Assignment is approved, a Notice to Proceed (NTP) letter and the executed work assignment is issued to the consultant.

3. Small Purchase Contract

If ROW Division requires certain services performed that are not available through the Master Contract list, a Small Purchase Contract may be an option. The total maximum allowable cost under a Small Purchase Contract must be less than \$250,000 and all small purchase contracts are required to go before the MTC for approval. Once the Small Purchase Contract is approved, a Notice to Proceed (NTP) letter and the executed contract is issued to the consultant.

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CONSULTANT CONTRACT ADMINISTRATION

4. Right of Way Project Scope of Work

When project right of way plans and/or acquisition maps, depicting the parcel acquisition information for a specific project have been completed, they are distributed from the Roadway Design Division to the Right of Way Division (ROW). Using the project specific plans or maps, the ROW Assistant Division Administrator and ROW Property Operations Administrator (Assistant Project Manager) determine the type of professional services that are needed, based on the requirements of the project, which may include all or part of the following professional services: appraisal, appraisal review, acquisition, relocation, and property management to include; well services, asbestos consulting and asbestos abatement and structural demolition. Once the professional services needed have been determined, a scope of work for each parcel on the project is developed. For example, the number and type of appraisals, appraisal review, waiver valuations, acquisitions, and relocations are determined, as well as, identification of parcels with improvements that will require asbestos abatement assessment and/or demolition. Once the scope of work for the project has been determined, a fee schedule is developed that is used to determine a state estimate of the maximum project costs.

5. Right of Way Master Contract Work Assignment Process

All work assignments under a Master Contract begin with the preparation of the ADM-301 form (Master Contract Work Assignment Request Form). After the project scope of work and a state estimate has been developed, the Project Manager, or his/her designee prepares and submits an ADM-301 form for approval. The ADM 301 form requires the approval of the MDOT Project Manager, Programming Manager, Project Director, Deputy Executive Director, and the Executive Director, and the Director of the Consultant Services Unit.

The ADM-301 form includes, among other items: the Master Contract name/description; project details, including the scope of work and the estimated work assignment cost; and the name of the consultant(s) recommended for the work assignment and justification. If more than one consultant has a Master Contract covering the work assignment scope, the following factors should be considered when recommending a Master Contract consultant(s) for a work assignment.

- a. The consultant(s) recommended from the list of Master Contract consultants has sufficient staff and qualifications to accomplish the work, and
- b. There is a balance of work among all consultants under a qualifying Master Contract,
- c. The nature of the work involved in a project, and
- d. The scope of work requirements of a project

The Project Manager or his/her designee will recommend a single consultant from three qualified consultants, if the estimated work assignment cost is less than \$250,000. Once the ADM-301 is authorized, a request for proposal will be solicited from the recommended consultants. If the work assignment cost is estimated to be \$250,000, or more, the Project Manager or his/her designee will recommend three qualified consultants on the ADM form and indicate that the consultant will be selected using the best value method. Under this process a Request for Proposals will be solicited from all three recommended consultants.

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CONSULTANT CONTRACT ADMINISTRATION

Corresponding to House Bill 638, effective July 1, 2025, all Master Contract work assignments of \$250,000 or more require the approval of the Mississippi Transportation Commission. Upon approval of the ADM-301, the Project Manager or his/her designee will prepare with the assistance from MDOT Consultant Services Unit (CSU) the work assignment documents to be used in the Request for Proposal(s), described below.

6. Right of Way Request for Proposals (RFP)

Once the ADM-301 or ADM 101 has been approved, a Request for Proposal(s) (RFP) is prepared and sent to the recommended consultant or consultants. The RFP process includes the following steps:

- a. Preparation of the project description, scope of work, fee schedule with the estimated number of parcels/units for which cost are requested; an estimate of direct cost form, cost breakdown form, a progress schedule and other pertinent information in a format consistent with the Master Contract specifications,
- b. Preparation of the Request for Proposal(s) with attachments listed above,
- c. Transmitting RFP to the Consultant(s), and
- d. Receipt of proposal(s) from the consultant(s)

7. Right of Way Selection of a Consultant for a Work Assignment

The selection of a consultant will be based on the proposals submitted through the RFP process described above. The selection of a successful consultant is based on the review and evaluation of the contents of the submitted proposal(s) related to such factors as; qualifications and experience of the staff assigned to the project, ability to deliver the project in a timely manner in accordance with the project schedule, and costs. Each proposal submitted is evaluated by each of the ROW selection committee members, consisting of the following ROW personnel; Right of Way Division Director (Project Manager), Right of Way Assistant Division Administrator, and the Right of Way Operations Administrator (Assistant Project Manager). Upon the final selection by the ROW consultant selection committee, the Project Manager or his/her designee works with the MDOT Consultant Services Unit and the Consultant in processing the work assignment for the selected consultant.

The Project Manager and the Consultant Services Unit reviews the work assignment contract documents submitted by the consultant. Once the documents are found to be acceptable, the consultant is requested to submit three (3) signed originals to be executed by the MDOT Executive Director, subject to approval by the Mississippi Transportation Commission, if the work assignment is \$250,000 or more. Once the work assignment has been executed by the MDOT Executive Director, a notice to proceed is issued by the Project Director. Once the Notice to Proceed letter has been issued, the CSU mails the noticed to proceed with the work assignment documents to the consultant. Costs may not be incurred and no work may be performed for any phase of the contract until the Notice to Proceed is issued.

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CONSULTANT CONTRACT ADMINISTRATION

8. Right of Way Small Purchase Contract Process

Once the Right of Way Division Administration has determined that the services of a professional service provider not on the Master Contract list is needed for a project, the Project Manager or his/her designee develops a scope of work and cost estimate and submits an ADM-101 for approval as described above. Once the ADM is approved, the Request for Proposal (RFP) is sent to the recommend consultant. Once the proposal is approved by the ROW selection committee, the Consultant Services Unit prepares the small purchase contract for approval by the Mississippi Transportation Commission and execution of the contract by the MDOT Executive Director. Once this process has been completed, a notice to proceed is issued by the Project Director.

9. Right of Way Supplemental Agreement Process

A supplemental agreement is defined as a contractual time extension and/or an increase in the total cost to an existing contract. When supplementary agreements are needed, the Project Manager or his/her designee will work with the consultant and the CSU to prepare a supplemental agreement that will include a description of any changes in the work scope, cost/and or completion date, as well as, a justification for such changes. The CSU unit will review the supplemental agreement for compliance with the original contract and will facilitate the process for approving the supplemental agreement.

10. Consultant Payment Processing

Once the notice to proceed has been issued for a Work Assignment or Small Purchase Contract the consultant may begin work and invoicing for services rendered. The consultant sends invoices for professional services to the Consultant Services Unit of MDOT through the CSU Electronic Invoicing System. Once the MDOT CSU has reviewed the invoice for contract compliance, the invoice is sent to the ROW Accounting Section, CSU Invoice Originator. The invoice is given a general review for contract compliance and required invoicing details. If the invoice is not in compliance or does not provide required details, it is disputed back to the CSU to be sent back to the consultant to revise and resubmit. If the invoice is in compliance, it is then forwarded to the ROW Division Section responsible for verifying the listed work, and preparing a PTS invoice. Once this is done, the invoice is forwarded to the ROW Operations Administrator, and then to the ROW Assistant Division Administrator, and lastly to the Right of Way Director for approval. When the invoice has been approved by the appropriate ROW Division Administration, it is sent to the Accounting Section to be processed and returned to CSU for final processing for payment. Additional details of the payment processing of professional services invoices can be found in the Accounting Chapter of the Right of Way Operations Manual.

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CONSULTANT CONTRACT ADMINISTRATION

11. Local Public Agency (LPA) Payment Processing

The ROW LPA Coordinator receives hardcopy LPA invoices and verifies posted work has been performed. The ROW LPA Coordinator then reviews the invoice for contract compliance and balance of funds available. The ROW LPA Coordinator forwards the invoice to the ROW Assistant Division Administrator with a recommendation for approval or returns the invoice to the LPA for corrections. The ROW Assistant Division Administrator reviews and approves the invoice, upon the recommendation of the ROW LPA Coordinator and forwards the approved invoice to the ROW Accounting Section to submit payment. At any point of reviewing the invoice, the invoice may be referred back to the LPA for clarification or resubmission. Additional Details of payment processing can be found in the Accounting Chapter of the Right of Way Operations Manual.

12. Letter of Acceptance (LOA)

A CONSULTANT REQUESTS CLOSURE

1. The CONSULTANT transmits written notification by email to the MDOT Project Manager (or their designee) that the work required under the work assignment has been completed and submits a DRAFT final Invoice for review and approval.
2. The MDOT Project Manager (or their designee) obtains confirmation that the work under the work assignment has been completed and the contract is ready to be closed.
3. The MDOT Project Manager (or their designee) prepares a Letter of Acceptance (LOA) for approval by the MDOT Project Director.
4. Upon receipt of the approved (signed) LOA from the MDOT Project Director, the MDOT Project Manager (or their designee) shall transmit a Request for a FINAL Invoice and the LOA to the CONSULTANT.
5. The CONSULTANT shall submit the FINAL INVOICE to the Consultant Services online invoice system for payment processing within 45 days.

B MDOT REQUESTS CLOSURE

1. The MDOT Project Manager (or the designee) obtains confirmation that the work under the contract has been completed and the work assignment or contract is ready to be terminated.
2. The MDOT Project Manager (or the designee) shall transmit written notification by email to the CONSULTANT that the work required under the contract has been completed and request confirmation from the Consultant.
3. The MDOT Project Manager (or the designee) then prepares a Letter of Acceptance (LOA) for approval by the MDOT Project Director.
4. Upon receipt of the approved (signed) LOA from the MDOT Project Director, the MDOT Project Manager (or the designee) shall transmit the LOA and a request for FINAL invoice to the CONSULTANT.
5. The CONSULTANT shall submit the FINAL invoice with the LOA to the Consultant Services online invoice system for payment processing within 45 days.

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C CONSULTANT SUBMITS FINAL INVOICE WITHOUT LOA

1. The CONSULTANT transmits final invoice to CSU Online Invoicing System without a Letter of Acceptance (LOA).
2. CSU Division notifies MDOT Project Manager (or their designee) of the receipt of the FINAL invoice and inquires if an LOA has been issued.
3. The MDOT Project Manager (or their designee) obtains confirmation that the work under the work assignment has been completed and the contract is ready to be closed. In the event the contract is not ready to be closed, the MDOT Project Manager (or their designee) shall advise CSU so the invoice can be rejected and/or revised and properly resubmitted.
4. The MDOT Project Manager (or their designee) prepares a Letter of Acceptance (LOA) for approval by the MDOT Project Director.
5. Upon receipt of the approved (signed) LOA from the MDOT Project Director, the MDOT Project Manager (or their designee) shall transmit the LOA to CSU for inclusion with the FINAL invoice.
6. CSU proceeds with processing of the FINAL invoice.

DEFINITIONS

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SUBJECT: Definitions

PURPOSE: To define terms used in the Right of Way Standard Operating Procedures and Right of Way Manual.

DEFINITIONS

1. Access Rights – The right of ingress to and egress from a property to a public way.
2. Acquisition – Activities to obtain an interest in, and possession of, real property.
3. Advance Acquisition – The acquisition of a particular parcel or a limited number of parcels, to prevent imminent development and increased costs on the preferred location (Protective Buying), or to alleviate hardship to a property owner or owners on the preferred location (Hardship Acquisition) in advance of final environmental approval of a transportation project as stated in 23 CFR 710.503. MDOT policy requires a Categorical Exclusion (CE) for these type of acquisitions.
4. Agency – The State of Mississippi, Mississippi Transportation Commission, Mississippi Department of Transportation, State Agency, Local Public Agency, or person receiving federal financial assistance through the Mississippi Department of Transportation or any Federal Agency for a project involving the acquisition of real property or the displacement of a person.
 - (a) Acquiring Agency – An Agency, as defined in this section, other entity, or person, which has the authority to acquire real property by eminent domain under State or Federal law, and a state agency or person which does not have such authority.
 - (b) Displacing Agency – Any Agency carrying out a project or program with Federal financial assistance or under any state law, which causes a person to be a displaced person.
 - (c) Federal Agency – Any department, agency or instrumentality in the executive branch of the Government, any wholly-owned government corporation, the Federal Highway Administration (FHWA), the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal Laws.
 - (d) State Agency – Any department, agency or instrumentality of a State or a political subdivision of a State, any department, agency or instrumentality of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under state law.
5. Air Rights – Real Property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace.
6. Airspace – That space located above and/or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right-of-way or project boundaries.
7. Alien not lawfully present in the United States – The phrase alien not lawfully present in the United States includes:
 - (a) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose

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stay in the United States has not been authorized by the U.S. Secretary of Homeland Security; and

- (b) An alien who is present in the United States after the expiration of the period of stay authorized by the U.S. Secretary of Homeland Security or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

8. Appraisal – A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

9. Business – A lawful activity, except a farm operation, that is conducted:

- (a) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacturing, processing and/or marketing of products, commodities and/or other personal property.
- (b) Primarily for the sale of services to the public.
- (c) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project.
- (d) By a non-profit organization that has established its nonprofit status under applicable federal or state law.

10. Citizen – The term citizen for purposes of this ROM includes both citizens of the United States and noncitizen nationals.

11. Comparable Replacement Dwelling – A dwelling which meets the following criteria, as set forth in 49 CFR 24.2:

- (a) Decent, safe and sanitary as described in 49 CFR 24.2;
- (b) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, a displacing agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
- (c) Adequate in size to accommodate the occupants;
- (d) In an area not subject to unreasonable adverse environmental conditions;
- (e) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
- (f) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses;
- (g) Currently available to the displaced person on the private market except as provided in 49 CFR 24.2(a)(6)(ix); and
- (h) Within the financial means of the displaced person:

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- (1) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in 49 CFR 24.401(c) and in the Relocation Section of the Right of Way Operations Manual, all increased mortgage interest costs as described at 49 CFR 24.401(d) and in the Relocation Section of the Right of Way Operations Manual and all incidental expenses as described at 49 CFR 24.401(e) and in the Relocation Section of the Right of Way Operations Manual, plus any additional amount required to be paid under 49 CFR 24.404, Replacement Housing of Last Resort.
- (2) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at 49 CFR 24.402(b)(2) and in the Relocation Section of the Right of Way Operations Manual. For a person who paid little or no rent before displacement, the base market rent of the displacement dwelling, not to exceed 30 percent of the displaced family's gross income, shall be used when computing costs.
- (3) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in 49 CFR 24.402(b)(2) and in the Relocation Section of the Right of Way Operations Manual. Such rental assistance must be paid under 49 CFR 24.404, Replacement housing of last resort.
- (4) For a person receiving government housing assistance before displacement, a dwelling may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to fair housing, civil rights, and those relating to the size of the replacement dwelling, shall apply. There are no prohibitions offering, or precluding a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement, subject to the eligibility requirements of the Government housing assistance program. The displacing agency is obligated to inform the person of his or her options under this part and the implications of accepting a different form of assistance than the assistance that the person may currently be receiving. If a person accepts assistance under a government housing assistance program, the rules of that program apply, and the rental assistance payment is computed on the basis of the person's actual out-of-pocket cost for the replacement housing and associated utilities after the applicable Government housing assistance has been applied. In determining comparability of housing under this part:

(a) A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit.

(b) A privately owned unit with a housing project—based rental program subsidy (e.g., tied to the unit or building) may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing unit.

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(c) An offer for tenant-based rental assistance, such as a HUD Section 8 Housing Choice Voucher, may be provided along with an offer of a comparable replacement dwelling to a person receiving a similar subsidy assistance or occupying a privately owned subsidized unit or public housing unit before displacement. The displacing agency must confirm that the owner will accept tenant based rental assistance before offering the unit as comparable replacement housing.

12. Condemnation – The process of taking private property for public use or purpose through the power of eminent domain. Unlike police power, such as the denial of a zoning change, exercising the power of eminent domain requires just compensation be paid by the condemnor to the condemnee. The amount of the just compensation is generally considered to be the appraised market value of the property as of the date of the condemnation.

13. Contributes Materially – During the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the displacing agency determines to be more equitable, a business or farm operation

(a) Had average annual gross receipts of at least \$5000,

(b) Had average annual net earnings of at least \$1000,

(c) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

If the application of the above criteria creates inequity or hardship, the displacing agency may approve the use of other criteria as determined appropriate.

14. Cost of Utility Relocation – The entire amount paid by or on behalf of the utility property attributable to the relocation after deducting from that amount any increase in value of the new facility, and any salvage derived from the old facility.

15. Cost of Utility Removal – The amount expended to remove utility property including the cost of demolishing, dismantling, removing, transporting, or otherwise disposing of utility property and of cleaning up to leave the site in a neat and presentable condition.

16. Cost of Utility Salvage – The amount expended to restore salvaged utility property to usable condition after its removal.

17. Damages – The loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner's real property is acquired.

18. Date of Displacement – The date on which the displacee moves from the acquired parcel or the date on which he is required to move, whichever is earlier.

19. Decent, Safe and Sanitary Dwelling – A dwelling which meets applicable housing and occupancy codes; and unless waived for good cause by the federal agency funding the project, the following criteria:

(a) Is structurally sound, weather-tight, and in good repair. Local housing and occupancy codes may require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where those standards exist, they must be honored.

(b) Contains a safe and adequate electrical system.

(c) Contains a heating system capable of sustaining a healthful temperature of approximately 70 degrees.

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- (d) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by the most stringent of the local housing code, Federal agency regulations or requirements, or the displacing agency's regulations or written policy. In addition, the displacing agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or the policies of the displacing agency.
- (e) There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to potable hot and cold water and to a sanitary sewage system and adequate space and utility service connections for a stove and refrigerator.
- (f) Provides unobstructed, safe egress to ground level. If the replacement dwelling unit is on the second story or above with access directly from or through a common corridor, the common coordinator must have at least two means of egress.
- (g) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. The displacing agency is required to address comparability for persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The displacing agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

20. Displaced Person – The term “displaced person” means any person who moves from real property or moves his or her personal property from real property for one or more of the following reasons:

- (a) As a direct result of the MDOT's acquisition of such real property in whole or in part. This includes any person who moves from the real property because of the initiation of negotiations. (In the case of a partial acquisition, the Agency shall determine whether the person is displaced as a direct result of the partial acquisition).
- (b) As a result of a written order from MDOT to vacate such real property, or as a direct of a written notice of intent to acquire.
- (c) As a result of rehabilitation or demolition for a project.
- (d) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation, or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. Eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services and moving expense, excluding re-establishment and fixed payment benefits for businesses, farms and nonprofit organizations.
- (e) Persons required to move temporarily. A person who is required to move or moves his or her personal property from the real property as a direct result of the project but is not required to relocate permanently. Such determination shall be made by the displacing agency in accordance with any requirement, policy, or guidance established by the FHWA. All benefits for persons required to move on a temporary basis are described in 49 CFR 24.402 (a).
- (f) See also “Persons Not Displaced” as defined in this Right of Way Operations Manual.

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21. Disposal – The process by sale or other conveyance of permanent rights in excess real property when the real property interest is not currently or in the foreseeable future needed for highway right of way. A disposal of title 23 real property must meet the requirements contained in 23 CFR 710.403.

22. Donation – The voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation.

23. Dwelling – The place of permanent or custom or law, including single family house, a single-family unit in two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit (a sleeping room); a mobile home, or any other residential unit. Place of “permanent or customary and usual abode” is defined by the Attorney General of the State of Mississippi as follows:

That one certain dwelling place or place of residence which a person, with the present intention of making it and using it as a permanent home for an indefinite or unlimited period of time, has established occupies and uses as such a person’s principal or primary home and customary and usual permanent home address, being the place of habitation to which such person, following a temporary or special absence therefrom for reasons of employment, pleasure, illness, military service, or otherwise, normally and usually return to live such person’s private life. A person cannot have but one such habitation at a time even though from time to time during a lifetime a person can abandon a former such habitation and establish a current one. It includes any type of facility which is actually established, occupied, and used by such person of living, provided such person is a legal possession thereof, whether by ownership, lease, rental arrangement, or other legal means.

24. Dwelling Site - means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area.

24. Early Acquisition – The acquisition of real property interests by State or local governments prior to the completion of the environmental review process for the transportation project, as provided under 23 U.S.C. 108 and implemented under 23 CFR 710.501.

25. Early Acquisition Project – a project for the acquisition of real property interests prior to the completion of the environmental review process for the transportation project into which the acquired property will be incorporated, as authorized under 23 U.S.C. 108 and implemented under 23 CFR 710.501.

26. Easement – An interest in real property that conveys a right to use a portion of an owner’s property or a portion of an owner’s rights in the property either temporarily or permanently.

27. Eminent Domain – The right of government to take private property for public use upon the payment of just compensation.

28. Excess Real Property – a real property interest not needed currently or in the foreseeable future for transportation purposes or other uses eligible for funding under title 23, United State Code.

29. Fair Market Value – The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from the seller to buyer under conditions whereby: buyer and seller are typically motivated; both parties are well informed or well advised, and acting in what they consider their best interests; a reasonable time is allowed for exposure in the open market; payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

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30. Farm Operation – Any activity conducted solely or primarily to produce one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

31. Federal-Aid Highways – Highways on the Federal-aid highway systems and all other public roads.

32. Federal Aid Project – a project funded in whole or in part or requiring FHWA approval under 23 USC Chapter 1.

33. Federal Assisted – a project or program that receives grant funds under title 23 U.S.C.

34. Federal Financial Assistance – Any federal grant, loan, or contribution, except a federal guarantee or insurance, and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

35. Grantee – the party that is the direct recipient of title 23 funds and is accountable to FHWA for the use of the funds and for compliance with applicable Federal requirements.

36. Household Income – Total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, worker's compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full-time students under 18 years of age. or full-time students who are students for at least 5 months of the year and are under the age of 24.

37. Initiation of Negotiations – The delivery of the initial written offer by the Agency to the owner or owner's representative real property for a project for the amount determined to be just compensation. In case of a permanent relocation to protect the public health and welfare, the "initiation of negotiations" means the formal announcement of such relocation or the federal or federally coordinated health advisory where the Federal Government later decides to conduct a permanent relocation is announced. However, in any case where a person moves after the Agency issues a notice of its intent to acquire the real property, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the date the person moves from the property.

38. Just Compensation – The compensation for property acquired under eminent domain or by agreement that places a property owner in the same position as before the property is taken. It is usually the fair market value of the property acquired.

39. Lead Agency – The Department of Transportation acting through the Federal Highway Administration. The Mississippi Department of Transportation as a grantee, is the lead agency for a State project.

40. Local Public Agency – Any city, county, township, municipality, or other political subdivision that may be empowered to cooperate with the Mississippi Department of Transportation in highway matters.

41. Market Value – The most probable price in cash, terms equivalent to cash, or in other precisely revealed terms for which the appraised property will sell in a competitive market value under all conditions requisite to fair sale with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress.

42. Mitigation Property – real property interests acquired to mitigate for impacts of a project eligible for title 23 funding or State funded project.

43. Mobile Home – Includes manufactured homes and recreational vehicles used as residences.

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44. Mortgage – Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State of Mississippi, together with the credit instruments, if any secured thereby.

45. NHS – The National Highway System as defined in 23 USC 103.

46. Nonprofit Organization – An organization that is incorporated under the applicable laws of the State of Mississippi as a nonprofit organization, and exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 USC 501).

47. Notice of Intent – To acquire or Notice of Eligibility for Relocation Assistance – Written notice to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, that establishes eligibility for relocation assistance benefits prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance.

48. Option – Purchase of a right to acquire real property.

49. Owner of Displacement Dwelling – A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interest in real property acquired for a project:

- (a) Fee title, a life estate, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition.
- (b) An interest in cooperative housing project which includes the right to occupy a dwelling.
- (c) A contract to purchase any of the interest or estates described in subparagraphs (a) or (b) of this paragraph.
- (d) Any other interest including a partial interest which in the judgment of the Agency warrants consideration as ownership.

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

50. Person – Any individual, family, partnership, corporation, or association.

51. Persons Not Displaced – The following is a nonexclusive listing of persons who do not qualify as displaced persons under these regulations:

- (a) A person who moves before the initiation of negotiations, unless the displacing agency determines that the person was displaced as a direct result of the program or project.
- (b) A person who initially enters occupancy of the property after the date of its acquisition for the project.
- (c) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act.

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- (d) A person who is not required to relocate permanently as a direct result of a project. Temporary, daily, or emergency shelter occupants are in most cases not considered displaced persons. Such determination shall be made by the Agency in accordance with any guidelines established by FHWA. If the occupant of a dwelling will not be displaced but is required to relocate temporarily in connection with the project, the temporary occupied housing must be decent, safe, and sanitary and the temporarily displaced person must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation.
 - (e) A person who after receiving a notice of relocation eligibility is notified in writing that he or she will not be displaced. This notice shall not be issued unless the person has not moved, and the Agency agrees to reimburse the person(s) for any expenses incurred to satisfy binding contractual relocation obligations entered after the effective date of the notice of relocation eligibility.
 - (f) An owner-occupant who voluntarily sells his or her property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property. Any resulting displacement of a tenant is subject to these regulations.
 - (g) A person whom the Agency determines is not displaced as a direct result of a partial acquisition.
 - (h) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency.
 - (i) A person who is determined to be in unlawful occupancy, as defined in the Right of Way Manual, prior to the initiation of negotiations, or a person who has been evicted for cause under applicable law.
 - (j) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance.
52. Program or Project – Any activity or series of activities undertaken by an Agency with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding guidelines.
53. Project – An undertaking by a State highway department or its subrecipient for highway construction, including preliminary engineering, acquisition of rights-of-way and actual construction, or for highway planning and research, or for any other work or activity to carry out the provisions of the Federal laws for the administration of Federal aid for highways.
54. Real Estate – An identified parcel or tract of land, or interest therein, including improvements, if any.
55. Real Property – Rights to use land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.
56. Relinquishment – The conveyance of a portion of a highway right-of-way or facility by a State highway department to another government agency for continued transportation use.
57. Reverse Mortgage (Home Equity Conversion Mortgage) - means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor is authorized to make under any Federal law or Mississippi law, or regulation. The reverse mortgage

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becomes due when none of the original borrowers lives in the home, if taxes or insurance become delinquent, or if the property falls into disrepair.

58. Right-of-Way – Real property and rights therein obtained for the construction, operation, maintenance or mitigation of a transportation or related facility funded under title 23 of the United States Code.

59. Right-of-Way Incidentals – Charges that are incurred by the ROW Title Section, Roadway Design Survey, Maps & Deeds Section or the ROW Property Management Section, as a result of title abstracting, the preparation of surveys, maps, and deeds, or determining if property has been contaminated. These charges include but are not limited to, labor, travel, consultants, and other related costs. A Project cannot be funded until maps and deeds are complete, so these incidental charges are paid from the Preliminary Engineering (PE) detail of the project.

60. Right of Way Use Agreement - real property interests, defined by an agreement, as evidenced by instruments such as a lease, license, or permit, for use of real property interests for non-highway purposes where the use is in the public interest, consistent with the continued operation, maintenance, and safety of the facility, and such use will not impair the highway or interfere with the free and safe flow of traffic (see also 23 CFR 1.23). These rights may be granted only for a specified period of time because the real property interest may be needed in the future for highway purposes or other purposes eligible for funding under title 23.

61. Salvage Value – The probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

62. Settlement – The result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following:

- (a) An administrative settlement is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official.
- (b) A legal settlement is a settlement reached by a responsible State legal representative after filing a condemnation proceeding, including stipulated settlements approved by the court in which the condemnation action had been filed.
- (c) A court settlement or court award is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of compensation for a taking under the laws of eminent domain.

63. Small Business – A business having at least one but not more than 500 employees working at the site being acquired or displaced by a program or project.

64. State – Any of the several States of the United States, the District of Columbia, the commonwealth of Puerto Rico, and territory or possession of the United States, the Trust Territories of the Pacific Islands or a political subdivision of any of these jurisdictions.

65. State Transportation Department (STD) – The State highway department, transportation department, or other State transportation agency or commission to which title 23 of the United States Code funds are apportioned.

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66. Stewardship and Oversight Agreement – Written agreement between the STD and FHWA that defines the respective roles and responsibilities of FHWA and the State for carrying out certain project review, approval and oversight responsibilities under title 23 including those activities specified by 23 U.S.C. 106 (c) (3).

67. Sub grantee – Government agency or legal entity that enters into an agreement with a grantee to carry out part or all of the activity funded by title 23 grant funds and is accountable to the grantee for the use of the funds and for compliance with applicable Federal requirements.

68. Temporary, daily, or emergency shelter - any facility, the primary purpose of which is to provide a person with a temporary overnight shelter which does not allow prolonged or guaranteed occupancy. A shelter typically requires the occupants to remove their personal property and themselves from the premises daily, offers no guarantee of reentry in the evening, and in most cases does not meet the definition of dwelling as used in this part.

69. Tenant – A person who has the temporary use and occupancy of real property owned by another.

70. Uneconomic Remnant – A parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value to the owner.

71. Uniform Act – The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 with implementing regulations in 49 CFR Part 24 (84 Stat. 1894; USC 4601 et. seq.; Pub. L.91-646), and amendments thereto.

72. Unlawful Occupancy – a person who occupies without property right, title, or payment of rent, or a person legally evicted, with no legal rights to occupy a property under Mississippi law. A person who has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations, or who is determined by MDOT or displacing agency to be a squatter who is occupying the property without the permission of the owner and otherwise has no legal right to occupy the property under state law. MDOT or other displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.

73. Utility – A privately, publicly, or cooperatively owned line, facility or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary.

74. Utility Costs – Expenses for electricity, gas, other heating and cooking fuels, water, and sewer.

75. Utility Facility – Any line, facility, or system for producing, transporting, transmitting, or distributing communications, cable, television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned. A utility system may be publicly, privately, or cooperatively owned.

76. Utility Relocation – The adjustment of a utility facility required by the program or project undertaken by the displacing agency. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring necessary right-of-way on new location; moving rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It also means constructing a replacement facility that has the functional equivalency of the existing facility and is

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necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

77. Waiver Valuation – Valuation process used, and product produced when the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated to be less than \$10,000.00, based on a review of available data.

acronyms. The following acronyms are commonly used in the implementation of programs subject to this part:

- (1) DOT (U.S. Department of Transportation).
- (2) FEMA (Federal Emergency Management Agency).
- (3) FHA (Federal Housing Administration).
- (4) FHWA (Federal Highway Administration).
- (5) HLR (housing of last resort).
- (6) HUD (U.S. Department of Housing and Urban Development).
- (7) MIDP (mortgage interest differential payment).
- (8) RHP (replacement housing payment).
- (9) UA or URA (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).
- (10) USPAP (Uniform Standards of Professional Appraisal Practice).

**ENVIRONMENTAL -
RIGHT OF WAY
COORDINATION**

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ENVIRONMENTAL - RIGHT OF WAY COORDINATION

The following procedures document the MDOT Environmental and Right of Way Division's responsibilities for the identification of environmentally sensitive, historical, and potentially contaminated sites and, if needed, remediation of contaminated sites prior to highway construction.

Please review all pertinent chapters of the MDOT Environmental and Right of Way Operations Manuals.

The following are general duties carried out by the MDOT Environmental Division and Right of Way Division staff as a joint effort for the oversight of assessment and remediation activities on a highway project.

1. General MDOT Environmental Division Activities

The MDOT Environmental Division activities include the inspection of the proposed project area to identify potentially contaminated sites such as underground storage tanks (UST) or identify environmentally sensitive areas which need special protection because of its landscape, wildlife, or historical value. The Environmental Division arranges for or conducts environmental site assessment activities and, when warranted, decides the extent of contamination and reports the contamination to relevant regulatory agencies. General duties are as follows:

- Determine if a site is already being addressed as part of the Mississippi Department of Environmental Quality (MDEQ) Superfund Program.
- Make determinations if the work should be performed by MDOT or utilize a consultant.
- Prepare general scope of work to be performed by the consultant.
- Coordinate with the consultants and appropriate regulatory authority for proper scope of work based on the site assessment to be performed.
- Assist in the coordination of property access for consultants.
- Schedule, coordinate and observe field activities to ensure activities are performed in accordance with the approved scope of work.
- Coordinate a timely project schedule to ensure a timely project delivery.
- Review reports and recommendations for site activities.
- Interface with regulatory authority to implement timely site assessment and remedial activities. Return significantly incomplete product to the consultant and consider invoking contract provisions for dismissal of consultant.

General MDOT Right of Way Division Activities

The MDOT ROW Division activities include the asbestos inspection and abatement, demolition of improvements and water well decommission for a highway project. For the detailed procedures, see the Property Management Section of the MDOT Right of Way Manual.

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ENVIRONMENTAL - RIGHT OF WAY COORDINATION

1.1 Inspect for Potentially Contaminated Sites

MDOT Environmental Division conducts a physical inspection of the proposed project area during the preliminary engineering phase of the project to identify potential sites that may pose an environmental risk. If, at any time in the project development process a potentially contaminated site is encountered, the potential impact of mitigating the contamination is fully considered in the route and alternate route selection process. A report and results of necessary site assessments are provided to the MDOT Environmental and ROW Divisions for inclusion in their respective documentation.

12 Environmental Site Assessment

Timely identification and assessment of potentially contaminated sites allows more effective coordination between MDOT and MDEQ for site assessment and remedial activities that may be required. MDOT Environmental Division performs environmental assessments of potentially contaminated sites that require further investigation. All environmental site assessment reports are submitted to MDEQ for comment.

13 Remediation of Contamination

Based on MDEQ's review of the environmental site assessment report, MDEQ provides a written comment letter to MDOT Environmental Division as to whether any additional regulatory actions are required. If a no further action letter is issued by MDEQ for the site, the property is considered cleared by MDOT Environment Division. See section 2.7 below for the detailed procedure.

14 Underground Storage Tanks

MDOT Environmental Division provides the oversight of the removal of USTs. MDOT follows MDEQ Underground Storage Tank Program procedures for removal of USTs located on a highway construction project. See section 2.8 below for the detailed procedure.

15 Authority to Acquire Contaminated Site

Prior to the acquisition of a contaminated site, MDOT's Chief Engineer *must* provide the MDOT ROW Division written authority to acquire the contaminated site. MDOT Environmental Division will provide the MDOT ROW Division a No Further Action (NFA) notification from MDEQ before any acquisition of a confirmed or suspected contaminated site. See section 2.7 below for more details on this process.

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2. Environmental and Right of Way Procedures

2.1 Implementation of Environmental Commitments

As part of the environmental approval process, the MDOT Environmental Division may make environmental commitments that are required to be implemented. The commitments are part of the overall environmental document that is submitted to the Federal Highway Administration (FHWA) for approval. Any environmental commitments made by MDOT are presented in the front of the environmental document commonly referred to as the "Gold Sheet" titled MDOT Commitments to Environmental Excellence. The Gold Sheet commitments are signed by the responsible personnel once the commitment is met. The designated Environmental Division staff and ROW District Coordinator shall review the environmental document for each project to ensure that right of way acquisition activities do not conflict with the Gold Sheet commitments. Any water well or asbestos concerns listed in the Gold Sheet will be addressed by MDOT ROW Division as described by the Property Management chapter of the ROW Manual. The Environmental Operations Coordinator and Location Engineer/Specialist shall be notified by ROW Division of any potentially contaminated sites identified during the ROW process that are not identified in the environmental document for the project.

2.2 Identification of Potentially Contaminated Sites

The methods for identification of potentially contaminated sites include the following:

a. Initial Site Assessment (ISA)

During the preliminary engineering phase, the Location Engineer/Specialist and/or the Environmental Operations coordinator conduct a physical inspection of the proposed corridor and all alternate corridors. The Environmental Operations Coordinator also reviews the MDEQ database and US Environmental Protection Agency (US EPA) database for additional information regarding potentially contaminated sites within the proposed project area.

An Initial Site Assessment (ISA) Memorandum is prepared by the Environmental Operations Coordinator to document the physical inspection and database review of the proposed project area. The ISA memorandum shall be submitted by email or hard copy to the Right of Way (ROW) Division Operations Administrator, ROW District Coordinator, and the MDOT Environmental Location Engineer/Specialist.

b. Additional Methods to Identify Environmentally Sensitive Areas

Identification of potentially overlooked environmentally sensitive areas including, but not limited to, potentially contaminated sites, archaeological sites, historical properties, and Native American resources is an ongoing process. All MDOT staff and MDOT consultants and/or contractors hold some responsibility for such identification. Summarized below are some *additional* means by which environmentally sensitive areas may be identified.

- The Roadway Design (RWD) Survey, Maps & Deeds Section reviews ROW plans for items that signal potentially overlooked environmentally sensitive areas (e.g., dispenser islands). The RWD staff person notifies the Location Engineer/Specialist and/or the Environmental Operations coordinator via e-mail or memorandum of the site.

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- If the potential for contamination or other environmental sensitivities is discovered, the ROW Operations Administrator and ROW District Coordinator must be notified by email or memorandum of the identified sites. The Location Engineer/Specialist and/or the Environmental Operations coordinator are notified via e-mail or memorandum by the ROW Operations Administrator. The ROW Agent or consultant should review the Parcel Tracking System to ensure that the ROW Division is not already aware of the site.

c. Ongoing Notification of Potentially Contaminated Sites and other Environmentally Sensitive Areas

At every step of the environmental site assessment process, the ROW Operations Administrator revises the Parcel Tracking System (PTS) as the site status changes. The ROW Operations Administrator shall check parcel tracking and consult with the Location Engineer/Specialist and/or the Environmental Operations coordinator prior to the project kick-off meeting to verify the number and size of underground storage tanks as well as any other information on potentially contaminated sites and other environmentally sensitive areas.

2.3 Environmental Division Preparation of Contaminated Sites File

Once an ISA is completed, the Location Engineer/Specialist and/or the Environmental Operations coordinator posts various documents to the Project Environment file of the MDOT project management filing system (currently the MDOT ProjectWise system). These documents include but are not limited to a copy of the ISA memorandum, ISA Forms for each site identified, assessment reports, and any additional documentation.

2.4 Freeze Acquisition of Potentially Contaminated Sites

Once contamination or other environmentally sensitive areas are identified on a project parcel, the parcel is listed as a "do not acquire" parcel and appropriately marked as such in Parcel Tracking System (PTS) by the ROW Operations Administrator. Once the concerns have been addressed to the satisfaction of the regulatory agency such as the receipt of a NFA or authorization has been received from the Chief Engineer, the parcel may be acquired by MDOT, and status shall be changed to "cleared for acquisition" in PTS by the ROW Operations Administrator.

2.5 Property Owner Contact

Initial property owner contact occurs either during the initial site assessment or during the site visit. During the initial contact with the owner/operator of a potentially contaminated site, the Environmental Operations Coordinator or designated ROW agent, shall explain the general environmental assessment process for site assessment activities.

During the initial property owner contact, the Environmental Operations Coordinator or designated ROW Agent, requests permission for MDOT representative and/or the consultant to access to the property. The Environmental Operations Coordinator provides property owner contact information to the consultant to enable scheduling of environmental site assessment activities.

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Mississippi Code § 65-1-335 allows MDOT access to any lands and structures to make surveys, borings, environmental site assessments, or examinations as necessary to perform its duties and responsibilities. If the property owner denies access to the property for environmental site assessment, the Environmental Operations Coordinator may request assistance from MDOT's Legal Division in obtaining access to the property to conduct environmental site assessment.

2.6 Environmental Site Assessments

Following the identification of potentially contaminated sites, MDOT conducts a site-specific Environmental Site Assessment of potentially contaminated sites utilizing laboratory analytical analysis of the appropriate media. The general process is described in the following steps.

a. Site Visit

The Environmental Operations Coordinator provides the MOOT representative or consultant with the completed ISA memorandum and ROW Plans. Additionally, the MOOT representative or consultant reviews the ISA memorandum and the entire project to determine if additional potentially contaminated sites exist that may require assessment.

b. Environmental Site Assessment

Environmental Site Assessments are performed on potentially contaminated sites that require further investigation. The Environmental Operations Coordinator, or designated representative, monitors the environmental site assessment, as needed. The MOOT representative or consultant conducting the site assessment submits an environmental site assessment report to the Environmental Operations Coordinator for review. A copy of all environmental Site assessment reports is provided to MDEQ for review and comment.

Upon receipt of the appropriate regulatory authority and or MDEQ's comment letter, the Environmental Operations Coordinator prepares a summary memorandum, including a statement advising whether the property is cleared for acquisition and distributes by email or hard copy to the ROW Operations Administrator, ROW District Coordinator, Environmental Location Engineer/Specialist, and Environmental Division Director. All documentation is posted in the Project Environment file of the MOOT project management filing system by the Environmental Operations Coordinator.

2.7 Remediation/Mitigation of Identified Contamination

MOOT performs remediation and or mitigation as required by the appropriate regulatory authority of impacted parcels that are to be acquired during the ROW acquisition process.

a. Authority to Acquire Contaminated Sites

Once the recommendation has been made by MDOT's Environmental Division Director and concurred with by MDOT's Division Administrator to acquire a contaminated site, written authority to purchase that site must be secured from the Chief Engineer. The Environmental Operations Coordinator prepares a memorandum including a summary of all site assessment activities and estimated remedial cost, and any possible options for cost reimbursement for the Mississippi Groundwater Protection Trust Fund. After the memorandum is approved by the MOOT Environmental Division Director, it shall be distributed to the ROW Division Administrator, Assistant Chief Engineer for Preconstruction

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and the Chief Engineer requesting authority to acquire the site(s). Each person on the memorandum approves the recommendation by their signature. The Assistant Chief Engineer for Preconstruction recommends the authority to acquire and obtains the Chief Engineer's approval.

If the contaminated site is eligible for reimbursement of cleanup costs under the Mississippi Groundwater Protection Trust Fund, appropriate steps must be taken by the Environmental Operations Coordinator to apply for cost reimbursement. MDEQ's Mississippi Groundwater Protection Trust Fund reimbursement request process and procedures can be found [here](#) on MDEQ's website.

Remediation of Contaminated Sites

Following receipt of authority to acquire a contaminated site, the Environmental Operations Coordinator coordinates efforts with the appropriate regulatory authority or MDEQ and contractors, as needed, for remediation of the contamination.

2.8 Removal of Underground Storage Tanks (USTs)

Underground storage tanks (USTs) are removed following completion of acquisition and relocation of a parcel by ROW Division. The ROW Acquisition / Relocation Agent shall provide an abandonment statement to the ROW Division Operations Administrator. The ROW Division Operations Administrator shall then notify the Environmental Operations Coordinator of the USTs that have been abandoned and need to be removed. The Environmental Operations Coordinator registers MDOT as the tank owner with MDEQ using the [Change in Ownership for Underground Storage Tanks Form](#) and notifies MDEQ of the tank removal date using [Notification to Permanently Closed UST Systems Form](#).

The Environmental Operations Coordinator directs the contractor to remove and dispose of tanks and any associated contaminated soils and or liquids. The Environmental Operations Coordinator oversees the completion of MDEQ's [UST System Closure Report](#) to notify MDEQ that tanks have been removed and of the analytical results of samples collected during the removal. If possible, the MDOT representative or consultant that completed the site assessment or environmental site assessment is used to provide oversight of the tank removal contractor, if contamination was identified during the environmental site assessment. The MDOT representative or consultant provides the Environmental Operations Coordinator with a letter report of the removal activities. This report is forwarded to MDEQ with the UST System Closure Report. After MDEQ reviews the UST System Closure Report and the oversight report, they send the Environmental Operations Coordinator a written determination as to whether any additional actions are required. Upon removal of USTs, documents pertaining to USTs are placed online in the project folder by the Environmental Operations Coordinator and made available to the ROW Division Operations Administrator and ROW District Coordinator.

Status of Potentially Contaminated Sites Report

Prior to construction project letting, the ROW Property Clearance Manager prepares a Status of Potentially Contaminated Sites Report for sites involve in the project which have been remediated and cleared. This report is prepared for every project on the letting schedule and is included in the project ROW Certification. The certification is prepared by ROW Division Administration. The Potentially Contaminated Sites Report states that the entire project site was inspected by Property Clearance section and provides a summary of any contamination identified including the site name, parcel number, station number, number and size of USTs, and the summary memorandum prepared by the Environmental Operations Coordinator.

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2.9 Closure of Environmental Procedures/Filing of Documents in MDOT's Permanent Project File

After a construction project has been let and all known contamination issues have been resolved, the Environmental Operations Coordinator will ensure that all relevant documentation is downloaded in the project folder in the Project Environment file of the MDOT project management filing system. Documentation typically includes the following:

- Initial Site Assessment Form
- Scope of work and cost estimate from consultant (if applicable)
- Notice to proceed with testing
- Assessment report with transmittal memorandums and letter to the proper regulatory authority and MDEQ
- Determination letter from MDEQ and transmitted memorandum
- Any documents regarding removal of USTs or site contamination
- Any documents pertaining to consultant work such as notices to proceed, invoices and reports. Note that any consultant work documentation is also kept by the MDOT Consultant Services Unit (CSU) as part of its consultant oversight responsibilities.

**LPA ROW
PROJECT
ADMINISTRATION
AND
MANAGEMENT**

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LPA ROW PROJECT ADMINISTRATION AND MANAGEMENT

The following procedures document the responsibilities of the Local Public Agency (LPA) in performing ROW Project Administration and Management. The LPA is responsible for managing and administering all functions of the Right of Way process including project administration, management, and accounting, in accordance with the executed Memorandum of Understanding between the LPA and MDOT.

The Mississippi Department of Transportation has determined that all Local Public Agencies (LPAs) in Mississippi must follow the applicable chapters of the Mississippi Department of Transportation Right of Way Operations Manual (ROM) in the implementation of federally assisted projects.

Please review all applicable chapters of the Right of Way Operations Manual. The applicable chapters of the MDOT ROM are provided in the MDOT LPA Division, Project Development Manual for Local Public Agencies (PDM), Chapter 4 – Right of Way Procedures.

1. Project Administration

The LPA is responsible for assuring all federal, state and local regulations are complied with during the Right of Way Phase of the LPA project.

1.1 Provide Project Activation and Oversight of all phases of the Right of Way Project

The Project Development Manual for Local Public Agencies sets forth requirements for LPAs to appoint a Project Director and a Project Manager as the representative(s) of the LPA.

1.2 Administer Selection Process for Real Estate Services contracts

If Real Estate Services need to be procured, the LPA shall administer the selection process pursuant to state and local regulations.

1.3 Compile documentation necessary and prepare ROW Costs estimation and funding authorization request

LPA projects that are eligible for reimbursement of Right of Way expenditures are required to submit the LPA Row Cost Estimate and Funding Authorization Form and receive full funding authorization prior to beginning the Right of Way Acquisition Phase of the project.

1.4 Provide support for Eminent Domain and condemnation processes

The LPA shall coordinate between consultants, legal professionals and MDOT personnel in all aspects of the Eminent Domain and condemnation process to ensure proper transfer of property rights to the LPA.

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LPA ROW PROJECT ADMINISTRATION AND MANAGEMENT

1.5 Provide support for final Right of Way Certification process

The LPA is responsible for coordinating with the MDOT ROW LPA Coordinator, any consultants, and the MDOT LPA District Engineer in submittal of the seven status reports required for project Right of Way Certification.

2. Project Management

The LPA is responsible for managing the consultants, communication between the LPA and MDOT, and insuring the work is being performed in compliance with the local, state and federal regulations and the work is being done in a timely manner.

2.1 Participation in all Project Meetings

The LPA is responsible for participation in all project meetings, including project kickoff meetings, field reviews, right of way kickoff meetings (if applicable), office reviews, and project status meetings.

2.2 Managing Contracts, Subcontracts and Supplemental Agreements

The LPA is responsible for preparation, submittal and management of all contracts, subcontracts and supplemental agreements.

2.3 Provide management and oversight of consultants and/or subconsultants in all right of way functions relative to the project

The LPA shall have in place sufficient controls and performance evaluation measures to ensure contract compliance and project performance.

2.4 Conduct status meetings and oversight of project performance

The LPA is responsible for status reporting and updates as set forth in the MDOT LPA PDM and as requested by the MDOT LPA District Engineer and the MDOT ROW LPA Coordinator.

2.5 Assist in Right of Way files review by the MDOT ROW LPA Coordinator

The LPA shall cooperate and comply with all requests by the MDOT ROW LPA Coordinator for right of way files review at any stage in the right of way acquisition process. A final review of all files is necessary to determine compliance with federal regulations. Additional requests for documentation may occur at any time during the Right of Way files review process.

2.6 Provide record keeping duties in compliance with the MDOT LPA PDM

The LPA shall maintain all Right of Way project files in accordance with the guidelines set forth in the MDOT LPA PDM Chapter 4.

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LPA ROW PROJECT ADMINISTRATION AND MANAGEMENT

3. Project Accounting

The LPA monitors all ROW-related expenditures, reimbursements, and receipts for the LPA. The LPA must ensure sufficient accounting functions and controls are in place to effectively and efficiently process payments and receipts and comply with project budget and audit functions.

3.1 Provide support to Project Director regarding LPA Project Right of Way Costs and budget

The LPA shall maintain an accounting system adequate to track current status of costs, receipts and project budget.

3.2 Ensure all local accounting procedures be in compliance

The LPA accounting procedures must be in compliance with local, state, and federally accepted accounting standards.

3.3 Provide Payment Processing for Professional Services fees and Right of Way Activity Costs

The LPA must ensure timely payment processing procedures in compliance with local guidelines, MDOT standards, as set forth in the executed project MOU.

3.4 Provide LPA Project Reimbursement

The LPA must have procedures in place to receive documentation, prepare and submit project reimbursement requests and to adequately track receipt of all project reimbursements.

3.5 Comply with and provide information necessary for all project audits

The LPA may be audited at any local, state, or federal level for project fund accountings. The LPA is responsible for providing all accounting information when requested.

**MDOT ROW
LPA COORDINATOR**

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MDOT ROW LPA COORDINATOR

The following procedures document the responsibilities of the MDOT ROW LPA Coordinator. The MDOT ROW LPA Coordinator serves as liaison between the MDOT ROW Division, MDOT LPA Division, MDOT District LPA Engineers, Local Public Agencies, LPA Consultants, and FHWA. The MDOT ROW LPA Coordinator coordinates right of way activities, assesses and reports on right of way project progress, provides input and assistance to right of way project problems and has oversight over all Local Public Agency projects requiring Right of Way acquisition activities.

Please review all pertinent chapters in the Right of Way Operations Manual.

1. Represent Right of Way Division in the ROW Project Phases of LPA Projects

The MDOT ROW LPA Coordinator is the main point of contact for the LPA regarding the ROW phase of the LPA project.

1.1 Participate in LPA Project Kickoff Meeting

The MDOT ROW LPA Coordinator participates in the LPA kickoff meetings when right of way is potentially required. The MDOT ROW LPA Coordinator shall address right of way considerations from the Local Public Agency as requested, offering guidance and oversight to the Local Public Agency for compliance with the requirements of the Uniform Act. At the Kickoff meeting, the LPA and/or their ROW Consultant will exchange necessary contact information, and the MDOT ROW LPA Coordinator shall discuss with the LPA whether the LPA will be seeking reimbursement or special match credit for ROW expenditures or if other funding actions will be applicable to the project. If the LPA will be seeking reimbursement for right of way activity costs on the project, then the MDOT ROW PLA Coordinator will advise the LPA of any requirements for selection of a Real Estate Services Consultant. The Right of Way Certification request process will be discussed as all LPA projects, whether or not requiring potential right of way acquisition, will require a Right of Way Certification.

1.2 Participate in Field Visit Project Review

The MDOT LPA District Engineer coordinates and schedules the field visit. The MDOT ROW LPA Coordinator attends the field visit on LPA projects that may require right of way acquisition and conducts a preliminary review of the project. During the field visit, the MDOT ROW LPA Coordinator reviews the project and the ROW plans for ROW considerations, providing oversight to the process as necessary. These right of way considerations may include the following:

- Easements for driveways or ponds
- Lack of access lines
- Historic sites
- Churches
- Cemeteries
- Parks
- Environmental concerns (such as, underground storage tanks, dry cleaners, funeral homes, farm shops, crop dusters)
- Personal property relocation
- Listing of secondary roads
- Utilities
- Encroachments
- Culverts and riprap (need to be on permanent right of way)
- Correct topography (fences, improvements, billboards, and signs)
- Proximity to improvements (if close, can it be pulled off or is there a need to acquire)

Upon completion of the field visit, the MDOT ROW LPA Coordinator maintains any notes of considerations and places them into the project file for future reference.

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MDOT ROW LPA COORDINATOR

1.3 Procure Project Funding Estimates on LPA Projects Utilizing Federal Reimbursement

The LPA prepares a ROW Cost Estimate and Funding Authorization Request and submits it to the MDOT District LPA Engineer for submission to the MDOT ROW LPA Coordinator. The MDOT ROW LPA Coordinator will review the request and make recommendation to the Programming Division Accounting Manager to accept the ROW Cost Estimate and Funding Authorization Request and to further request authorization from the Federal Highway Administration.

1.4 Participate in Office Review in LPA Projects Requiring Right of Way

The LPA completes the project design and the MDOT District LPA Engineer schedules and conducts an office review. The MDOT ROW LPA Coordinator attends the office review to discuss potential right of way considerations and to discuss the electronic submittal process for Right of Way Certification.

1.5 Review Environmental Documentation

The MDOT ROW LPA Coordinator reviews the Environmental Documentation for any applicable ROW Commitments contained in the Environmental Document (see Gold Sheet), and provides oversight as necessary to LPA of those Commitments regarding right of way considerations.

1.6 LPA Project Development Management Team Participation

The MDOT ROW LPA Coordinator participates in the LPA District Project Development Management Team meetings throughout the course of a project. The MDOT ROW LPA Coordinator attends the District LPA PDPM meetings and provides the ROW Assistant Division Administrator and the LPA Division with initial and updated information on right of way considerations as necessary or requested.

1.7 Participation in Other Project Meetings

The LPA, District, Roadway Design, Environmental, LPA Division or any other division may additionally request a project meeting, either on-site or electronically, to specifically deal with an issue that is project-specific and may request the attendance of the MDOT ROW LPA Coordinator. The MDOT ROW LPA Coordinator should make every reasonable effort to attend project issue-specific requested meetings.

2. Project Oversight

2.1 Preliminary Project Coordination Activities

Upon receipt of the first set of ROW Acquisition Plans from the MDOT LPA District Engineer, the MDOT ROW LPA Coordinator reviews the plans and becomes familiar with the scope and right of way considerations of the LPA Project.

2.2 Review and Provide Oversight of Right of Way Consultant Selection

The MDOT ROW LPA Coordinator shall review all proposed LPA Contracts for Real Estate Services then the LPA is seeking reimbursement and federal participation in right of way activity costs. The criteria for using MDOT active Right of Way Consultants on reimbursable projects is outlined in the LPA PDM Chapter 4 – Right of Way procedures. The MDOT ROW LPA Coordinator, pursuant to the Stewardship Agreement with FHWA, shall provide oversight to ensure that the LPA provides adequate staffing with sufficient knowledge in all right of way functions to support the LPA project. The MDOT ROW LPA Coordinator shall make recommendations of staffing and/or terminology revisions. Once the MDOT ROW LPA

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MDOT ROW LPA COORDINATOR

Coordinator has reviewed the request for concurrence of the Contract for Real Estate Services, the MDOT ROW LPA Coordinator shall make final written concurrence with the Contract for Real Estate Services, prior to the execution of the contract by the LPA. Once concurrence has been provided, the LPA may then finalize the Contract for Real Estate Services.

2.3 Provide Authorization to Begin Right of Way Acquisition Phase

The MDOT ROW LPA Coordinator shall issue the written formal notice to begin right of way acquisition activities. Prior to the issuance of formal notice, Surveys, Maps and Deeds must be completed in the preliminary engineering phase and approved by MDOT Roadway Design. Additionally, the environmental document must be completed and approved. A review of financial considerations will occur for determination as to eligibility of reimbursement or special match credit. Once these issues are addressed and completed, the MDOT ROW LPA Coordinator shall issue the written formal notice to begin right of way acquisition activities and will schedule the LPA ROW Project Acquisition Kickoff Meeting.

2.4 Participate in LPA ROW Project Acquisition Kickoff Meeting.

The MDOT ROW LPA Coordinator will schedule the LPA ROW Project Acquisition Kickoff Meeting and it is to be held prior to the performance of the appraisal process on the project. The topics discussed may include, but not be limited to, the following:

1. Review project files and parcel review file checklist
2. Requirements to follow local, state and federal regulations in the ROW phase
3. Project start and estimated date for all parcels to be acquired or recommended for condemnation, if known
4. Project purpose and benefits
5. Consultant contracts and/or supplemental agreements
6. Contact information for:
 - Project Engineer
 - Relocation Agent(s)
 - Acquisition Consultant(s)
 - Review Appraiser
 - Appraisal Consultant(s)
 - Property Management Agent(s)
 - Other acquisition team members, as appropriate
7. Review of right of way acquisition maps and plans
8. Determination of acquisition criteria, donation, warranty deed, etc.
9. Determine the location and contact information of project office(s).
10. Tour the project to become familiar with and oriented to the proposed acquisition areas. Provide oversight to the LPA representative, ROW Consultants in attendance, and the MDOT District LPA Engineer for recommendations of resolutions on right of way considerations.
11. Underground storage tanks as well as any other information on potentially contaminated sites.
12. Advise, if necessary, of any environmental commitments
13. Review special construction features
14. Documentation required for reimbursement submittals
15. Annual Statistical Reporting requirements
16. Right of Way Certification status report templates, and/or information relative to the LPA-ROW EZ Form electronic submittal process.

2.4 Project Activity Report

The MDOT ROW LPA Coordinator shall provide either an oral or written report, upon request, concerning right of way activities taking place on active LPA right of way projects.

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MDOT ROW LPA COORDINATOR

2.5 Provide Project Monitoring Activities

The MDOT ROW LPA Coordinator monitors LPA ROW project phases to monitor Uniform Act compliance and make recommendations to LPA personnel and the MDOT District LPA Engineer on right of way considerations which may need to be addressed.

2.6 Perform Complete Project Right of Way Files Review

The MDOT ROW LPA Coordinator will perform the complete project Right of Way Files Review, in cooperation with FHWA, when applicable, to ensure that each parcel required for the project is fully acquired by legal title, and that all right of way activities were completed in full compliant with the federal regulations contained in 49 CFR, Part 24, otherwise known as "The Uniform Act". If further documentation is necessary or further action is required for all files to be acquired by legal title and in compliance with federal regulation, the MDOT ROW LPA Coordinator will advise the LPA of any further actions of documentation required. Once all documentation has been reviewed and approved by the MDOT ROW LPA Coordinator, the MDOT ROW LPA Coordinator will issue notification to the LPA that all parcels have been acquired in full compliance with federal regulations, and the LPA may move forward with the process of PS&E Assembly and requesting Right of Way Certification.

3. General Management/Administrative Activities

3.1 Prepare Weekly Itinerary

The MDOT ROW LPA Coordinator provides a weekly itinerary to the ROW Assistant Division Administrator, Right of Way Division Administration, and, if requested, to the LPA Statewide Engineer and LPA Division staff, including the MDOT LPA District Engineers. The MDOT ROW LPA Coordinator prepares said weekly itinerary on each Friday, but due to the nature of the responsibilities the itinerary may change frequently. Any changes to the itinerary are reported to the ROW Assistant Division Administrator, and, if requested, changes also are reported to the LPA Division. The LPA Division and the LPA District Engineers have review only access to the calendar of the MDOT ROW LPA Coordinator to facilitate coordination of all LPA ROW activities statewide.

3.2 Provide Assistance with Right of Way Certification

The MDOT ROW LPA Coordinator, after review of right of way considerations on the project, and after reviewing all right of way files and ensuring full compliance with federal regulations on any LPA project requiring right of way, shall:

- Receive and review LPA Request for Issuance of ROW Certificate, preferable through the electronic submittal process, addressing the seven issues listed below:
 - Verify ROW Status to determine if the rights of way and legal rights of entry have been acquired for the listed parcels;
- Verify the information contained in the Improvements Status;
- Verify the information contained in the Hazardous Waste Status;
- Verify the information contained in the Utility Status;
- Verify the information contained in the Asbestos Abatement Status;
- Verify the information contained in the Railroad Facilities Status;
- Verify the information contained in the Encroachment Status; and
Prepare Right of Way Certification Letter to FHWA and recommend to the ROW Division Administrator that a Right of Way Certification be issued for the project.
- Close out and approve the applicable form submitted through the electronic right of way submittal process.

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MDOT ROW LPA COORDINATOR

3.3 Provide Technical Assistance

The MDOT ROW LPA Coordinator shall provide technical assistance and review on right of way procedures and considerations to the LPA, LPA Consultants, and MDOT LPA District Engineers as needed.

3.4 Provide Management and Assistance with Special Match Credit

The MDOT ROW LPA Coordinator shall, upon receipt of request for determination of eligible amount of Special Match Credit from the MDOT LPA Division, complete a thorough review of all right of way files of the LPA project to determine any and all amounts expended for right of way related activities, including, but not being limited to, real estate services professional fees, acquisition and/or related costs, and any other right of way related expense, and to determine if said expenditures are eligible to be included for Special Match Credit. Upon completed review, the MDOT ROW LPA Coordinator shall issue a written Memorandum of Special Match Credit Eligibility to the LPA Division.

3.5 Provide Management and Assistance with Reimbursable Right of Way Expenditures

The MDOT ROW LPA Coordinator shall, upon receipt of request for reimbursement of right of way expenditures invoices, whether for real estate professional services, right of way acquisitions, right of way relocations, or other amounts expended for right of way related activities, complete a thorough review of the right of way files of the LPA project to verify all right of way activities have accurately occurred on the project, and have occurred in compliance with the Uniform Act. Once the MDOT ROW LPA Coordinator has verified the right of way activities have occurred, the MDOT ROW LPA Coordinator shall issue written Memorandum to the Right of Way Accounting Program Specialist for preparation of electronic invoice for signature of the MDOT ROW LPA Coordinator and the MDOT Right of Way Operations Administrator for LPA invoice approval for reimbursement..

3.6 Provide Management and Assistance with Right of Way LPA Training

The MDOT ROW LPA Coordinator, shall, as requested by the ROW Operations Administrator and/or the LPA Division, provide assistance in revising all Right of Way LPA training materials, and shall assist with and/or provide training presentations on an individual LPA training meeting basis, or as necessary in conjunction with the LPA Division Statewide LPA PDM training, either in-person or by electronic format. Additionally, the MDOT ROW LPA Coordinator shall, as requested by the ROW Operations Administrator, and/or the LPA Division, provide assistance in revising Chapter 4: Right of Way Procedures; in the LPA PDM and provide revisions and substitutions for the links contained therein.

3.7 Provide Technical Assistance with CivicTracker, PTS and the LPA ROW-EZ Form_Electronic Submittal Process.

The MDOT ROW LPA Coordinator shall recommend changes to the CivicTracker and PTS systems to improve electronic record-keeping and reporting. The MDOT ROW LPA Coordinator will also be responsible for utilizing these technologies when applicable and upon request from MDOT ROW Division Administration and the MDOT LPA Division Administration. Additionally, the MDOT ROW LPA Coordinator will monitor and make suggestions and changes to the electronic Right of Way Certification LPA ROW-EZ Form as necessary and/or as requested.

3.8 Provide Technical Assistance with Right of Way LPA Forms and Materials

The MDOT ROW LPA Coordinator, shall, as requested by the ROW Operations Administrator and/or Right of Way Division Administration provide assistance in creating and/or revising any and all Right of Way LPA Forms, whether print or electronic, and/or

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MDOT ROW LPA COORDINATOR

printed materials including but not being limited to, the LPA Citizen's Guide to Relocation Assistance.

3.9 Provide Management and Assistance with ROW LPA Annual Statistical Report

The MDOT ROW LPA Coordinator will gather information regarding acquisition and relocation statistics from the LPA for each federal fiscal year and will compile information to complete the ROW LPA Annual Statistical Report. Upon completion, the MDOT ROW LPA Coordinator will furnish the ROW LPA Annual Statistical Report to the ROW Accounting Program Specialist for submission to the FHWA.

3.10 Provide LPA Project Status Report.

The MDOT ROW LPA Coordinator will provide a LPA Project Status Report when requested to the ROW Operations Administrator.

**ROW
PROPERTY
MANAGEMENT
SECTION**

RIGHT OF WAY OPERATIONS MANUAL 2025

ROW PROPERTY MANAGEMENT SECTION

The following procedures document the responsibilities of the Right of Way Division's Property Management Section regarding the inspection and disposal of improvements.

Please review all pertinent chapters in the Right of Way Operations Manual and the Environmental Division Operations Manual.

Property Management activities occur under the direction of the Right of Way Clearance Manager of the MDOT Right of Way Division (ROW). The Right of Way Clearance Manager provides oversight of The Right of Way Property Management Section which is responsible for the identification of improvements that can be impacted by the project and has oversight of the removal of said improvements. The following are the oversight responsibilities of the Right of Way Clearance Manager:

- Assign Property Management activities to MDOT staff or consultants.
- Monitor MDOT Property Management staff or consultant assignments for compliance with 23 CFR 710, the Uniform Act (49 CFR Part 24), Federal or State Regulations, MDOT policies, procedures, and contract specifications for quality control.
- Resolve Property Management problems and issues.
- Encourage staff or consultants to be proactive in their assigned work to deal with new information and potential time-delaying issues and problems before the removal of improvements.
- Ensure Property Management MDOT staff and consultants are current with their professional training and qualified to accomplish the assigned work.
- Interpretation of official instructions and/or rules, contracts or agreements.
- Ensure proper distribution of work products to other MDOT Right of Way Sections and Divisions or MDOT consultants.
- Return significantly incomplete work assignments to the consultant and consider invoking contract provisions for dismissal of consultant.

1.0 Right of Way Property Management Process

The Property Management activities include the asbestos inspection, abatement and demolition of improvements and water well services. The detailed processes of performing these services can be found in Sections 3.1, 3.2 and 3.3 of this Property Management manual. In addition to these services, Property Management is responsible for performing the following:

Rodent Inspection

A ROW Agent inspects all acquisition areas for possible rodent infestation and manages any necessary rodent control measures. The rodent inspection must be made and dated prior to initiation of property acquisition procedures with the property owner(s) or authorized representative(s).

Cost Estimates

As part of determining the total costs of acquiring the property, after the field review, the Property Management Section receives roadway design plans from the Roadway Design Division and reviews them for improvements that may require disposal. An estimate for asbestos abatement, demolition and water well services is prepared and added to the cost estimate. Once all the estimates are received, the Property Management Section completes preparation of the cost estimate and submits them to the District Coordinators to be entered in PTS.

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It should be noted that including but not limited to, all environmentally sensitive, historical, and potentially contaminated sites will be handled by the MDOT Environmental Division. For detailed processes of these services, refer to the Environmental Procedures Manual.

2.0 Identifying Improvements

Once the appraisals are complete and having identified the real property and personal property being impacted by the proposed right-of-way acquisition, the ROW Agent will inspect the project for all improvements and provide necessary information to the ROW Clearance Manager. The ROW Clearance Manager will determine which improvements are to be handled by the Construction Contractor and which should be handled by the Asbestos Abatement and Demolition Contractor.

For improvements handled by the Construction Contractor:

Pictures and location information are sent to the ROW District Coordinator who provides the information to the District Construction Engineer and/or Pre-Construction Engineer, as applicable by the District. If approved, the improvements are noted accordingly in the Parcel Tracking System. Any of these improvements that the District prefers to be removed before construction will be added to the demolition contract.

For improvements handled by the Asbestos Abatement and Demolition Contractor, please refer to Sections 3.1 and 3.2

3.0 Asbestos Removal

The Right of Way Clearance Manager is responsible for coordinating and managing all information related to the removal of asbestos on the property to be acquired. The ROW Agent will perform an initial asbestos inspection. Once the acquisition is approved, the Right of Way Property Management Section will follow MDOT contract processes to evaluate bids and select a contractor to remove the asbestos.

3.1 Process of Approval for Asbestos Consulting Services

ROW Relocation/Property Management Agent

- Conducts an initial inventory of improvements during field review.
- Confirms inventory and enters data into PTS with pictures
- Submits a request to the ROW Clearance Manager for the Asbestos Consulting Services work assignment that includes the actual number of inspections required and the number of inspections requested

The following duties will be performed by either the ROW Assistant Director (*) or the Clearance Manager ()**

- Prepares a state estimate for the estimated cost of the work assignment**
- Creates an ADM-301 in the CSTS System; waits for approval of ADM-301 before contacting CONSULTANT*
- Contacts selected CONSULTANT and discussed the project at hand and requests pricing for the following: **

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ROW PROPERTY MANAGEMENT SECTION

- a. Asbestos inspections (tell them how many inspections are estimated to be performed)
 - b. Plans & Specifications for Asbestos Abatement
 - c. Air Monitoring Services (use 10-hour days or 12-hour days – Make sure pricing is for the correct number of hours)
 - d. Project Management Services
- Prepare work assignment with the above information and form 485-C*
 - Submit completed work assignment and form 485-C to CSU for review (must submit the editable Word format of work assignments and an Excel document if there are separate cost sheets) *
 - Accepts all changes to the work assignment that CSU has made, be sure to call or visit with CSU if there are changes you don't understand or disagree with*
 - Submits the work assignment to the CONSULTANT for execution*
 - The CONSULTANT must return three (3) signed originals of the work assignment and one (1) signed form 485-C. The CONSULTANT may return the signed originals to ROW or directly to CSU. The Notice to Proceed will be distributed via email from CSU to ROW
 - Forwards the Notice to Proceed to the CONSULTANT and the ROW Agent working the project**

ROW Agent

- Contacts Asbestos CONSULTANT for availability
- Contacts property owners/residents to schedule inspection
- Accompanies CONSULTANT to perform Asbestos Inspections
- Enters inspection date into PTS
- Receives and reviews Asbestos Material Survey (AMS) reports
- Enters results of AMS into PTS
- Notifies Right of Way Clearance Manager-when all reports are completed and data entered

Consultant's Responsibilities

The Consultant will provide asbestos consulting services in accordance with the general scope of work in the master contract and the specific project scope of work in the work assignment. These services are generally described as follows:

- Provide property asbestos inspections
- Prepare plans and specifications
- Provide air monitoring services during asbestos abatement activities
- Provide project management

3.2 Process of Approval for Asbestos Abatement and Demolition

ROW Relocation/Property Management Agent

- Verifies inventory of improvements for removal
- Submits request to ROW Clearance Manager for Asbestos Abatement and Demolition work assignment

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6.1 Protective Rents

1. Protective Rents may be offered and are designed to compensate owners for lost rental income when their tenants vacate the premises prior to the conveyance of title in response to our right of way acquisition process. Protective Rents benefit MDOT by mitigating the costs associated with relocation, including moving expenses and supplemental housing payments.
2. The specific issues that should be addressed in the plan include: 1) criteria for implementing the policy, 2) period owner would be compensated for keeping the units vacant, 3) method for determining amount of compensation, 4) timing of the offer to owner, 5) timing of payment to owner.
3. Protective Rents are authorized upon the approval of the Right of Way Division Director.
4. MDOT will execute a lease agreement with the current property owner(s) with the consideration for the lease agreement being assessed as an "Administrative Adjustment" Consideration for the Lease Agreement will be determined based on current market rental rates provided by the appraiser and review appraiser assigned to the project.
5. The Right of Way Operations Administrator will provide a copy of the completed Lease Agreement form which will be presented to an executed by the current property owner and Right of Way Division Director. The acquisition consultant/agent assigned to the project will provide a copy of the completed Lease Agreement to the current property owner. The completed original Lease Agreement will be scanned to the Parcel Tracking parcel file room and the original will be retained with the recorded deed files in the Right of Way Division Administrator's Office.

The Property Management Section will provide oversight and supervision of the leased property until it has been acquired.

The following duties will be performed by either the ROW Assistant Director (*) or the Clearance Manager ()**

ROW Clearance Process

- Prepare a state estimate for the estimated cost of the work assignment. **
- Creates an ADM-301 in the CSTS System (If the state estimate exceeds \$100K, select "Best Value") *
- Prepare a list of improvements from PTS using the Demo Cost Request report, check the box to include pictures (make sure all improvements have a value for the asbestos type, if AMS NOT PERFORMED is seen, this must be corrected as the AMS data has not been entered in PTS) **
- Waits for ADM-301 to be approved, if BEST VALUE was selected, proceed to step 5, if not, proceed to step 6. *
- Requests BEST VALUE cost estimates. *
- Prepare an email outlining the following information: *
 - a. MDOT Project Number
 - b. Termini
 - c. County
 - d. Instructions to complete the cost estimate on the attached Demo Cost Request form
 - e. Time and location of field inspection so all CONSULTANTS can review the project at the same time

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- f. Instructions on how to be considered for the project and specifics on the deadline and location for packets to be returned to MDOT (provide a location for all packets to be opened at the same time with CONSULTANTS present that wish to be present)
- g. Point of contact for all questions (all questions and responses shall be shared with all CONSULTANTS that were on the original request)
- Opens all valid bid packages received (any invalid packages should not be opened) *
- Evaluate bid packages at the opening (inform all present the award will not be finalized until all packages are double-checked for errors) *
- Sends the CONSULTANT selected on the ADM-301 the Demo Cost Request (with pictures) report for the project and requests the form be completed with asbestos abatement and demolition costs. **
- Enters cost received from the CONSULTANT into PTS. **
- Exports data from PTS via the Demo WA Cost Sheet (select Create Excel file when running the report). **
- Prepare work assignments with the above information and form 485-C. *
- Submits completed work assignment and form 485-C to CSU for review (must submit the editable Word format of work assignments and an Excel document if there are separate cost sheets) *
- Accepts all changes to the work assignment that CSU has made, be sure to call or visit with CSU if there are changes you don't understand or disagree with. *
- Submits the work assignment to the CONSULTANT for execution. *
- The CONSULTANT must return three (3) signed originals of the work assignment and one (1) signed form 485-C. *
- The CONSULTANT may return the signed originals to ROW or directly to CSU. The Notice to Proceed will be distributed via email from CSU to ROW.
- Forwards the Notice to Proceed to the CONSULTANT and the ROW Agent working on the project. **

ROW Agent

- Prepares the MDEQ Notification by running the PTS report MDEQ Notification Form and submitting the report to the asbestos abatement and demolition CONSULTANT (be sure the address field is complete for all parcels)
- Receives notification via PTS that a parcel has been acquired all relocation completed and the property is ready for demolition
- Verifies the improvements are clear of personal property and ready for demolition
- Updates PTS with the proper status
- Prepares and submits an Improvement Status Update Report to the asbestos consultant, the Mississippi Department of Environmental Quality, and the asbestos abatement and demolition consultant to release the parcels for demolition
- Verifies all improvements are removed
- Updates PTS and notifies Right of Way Clearance Manager that the parcel is clear
- Repeats as necessary until all improvements are removed

The Consultant's Responsibilities

The CONSULTANT will provide asbestos abatement and structural demolition services following the general scope of work in the master contract and the specific project scope of work in the work assignment. The services are generally described as follows:

- Submit a STATE OF MISSISSIPPI DEMOLITION/RENOVATION NOTIFICATION FORM to the Mississippi Department of Environmental Quality for the project. A copy

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of the notification form shall be submitted to the MDOT.

- Perform asbestos abatement per the plans and specifications, as required. Asbestos abatement shall be performed by a Mississippi certified. asbestos abatement contractor; and
- Remove, sell, or/demolish all improvements located within the proposed right-of-way

3.3 Process of Approval for Well Services

ROW Relocation/Property Management Agent

- Conducts an initial inventory of existing wells during field review.
- Confirms inventory of wells and enters data into PTS with pictures, pipe size, estimated depth of wells, and location by GPS coordinates
- Submits request to ROW Clearance Manager for Well Services work assignment that includes the inventoried number of wells that will need to be decommissioned

The following duties will be performed by either the ROW Assistant Director (*) or the Clearance Manager ()**

ROW Clearance Process

- Prepare a state estimate for the estimated cost of the work assignment. **
- Creates an ADM-301 in the CSTS System; waits for approval of ADM-301 before contacting CONSULTANT. *
- Contacts selected CONSULTANT and discussed the project at hand when the state estimate is under \$250K and requests pricing for the following: **
 - e. Provides several wells
 - f. Provides parcel numbers, property owners names, and physical addresses
 - g. Provides pictures, location, and size (diameter) of wells
- Request that the Consultant return the cost estimate on well closures. **
- Prepare work assignments with the above information. *
- Submit completed work assignment to CSU for review. *
- CSU returns the marked-up version of the work assignment.
- Accepts all changes to the work assignment that CSU has made. *
- Submits the work assignment to the CONSULTANT for approval and execution
- The CONSULTANT must return three (3) signed originals of the work assignment to the Assistant Division Director.
- Assistant Division Director sends signed originals to CSU. *
- CSU distributes notice to proceed by email to ROW and hard copies to the Consultant
- Forwards the Notice to Proceed to the CONSULTANT. **
- Enters the total cost of the work assignment into PTS. **
- When the well has been closed and removed from PTS the ROW Clearance Manager is notified
- ROW Clearance Manager requests decommission form from Consultant and enters into parcel tracking system.

ROW Agent

- ROW Clearance Manager receives notification from acquisition or relocation when the parcel has been acquired or Displacees have been moved
- The ROW Agent marks the location of all wells for closure

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- Agent provides electronic notification to the Consultant releasing the wells that are ready to be closed, and
- Agent provides pictures and location of marked wells
- Agent verifies that the well has been closed with the photograph of the closed well
- Agent downloads pictures to parcel tracking system
- Agent removes the well from parcel tracking and notifies ROW Clearance Manager

The Consultant's Responsibilities

The CONSULTANT shall provide well services in accordance with the general scope of work in the master contract and the specific project scope of work in the work assignment. These services are generally described as follows:

- Shall decommission the wells in accordance with the Mississippi Department of Environmental Quality, Office of Land and Water Resources (OLWR) regulations and all Federal, State, and Local requirements
- Submit the well decommission form to the MDEQ and to the MDOT within 30 days of the decommissioning of the well

4.1 Final Audit of Improvements

Following abatement and demolition contractor removal of improvements, the ROW Agent reviews the project to ensure that all improvements have been removed, excluding those in the construction contract.

5.0 Right of Way Certification

Upon receipt of certification memorandums from the District, the ROW Clearance Manager provides the following memorandum along with all pertinent information to the ROW Division Director to be included in the Right of Way Certification:

- Improvements Status Report
- Potentially Contaminated Sites Status Report
- Asbestos Abatement Status Report

The ROW Clearance Manager also provides the MDOT Construction Division Location Engineer the location and pictures of improvements to be included in the construction contract.

**RELOCATION
ROM**

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RELOCATION ROM

The following procedures document the responsibilities of the Right of Way Division for relocating individuals, businesses, non-profits and farm operations as needed for public transportation projects. The following procedures are written and implemented according to applicable laws, regulations and policies including the Uniform Relocation and Real Property Acquisition Policies Act of 1970 as amended (42 U.S.C. 4601 et seq.), 49 CFR Part 24 and authorized by Senate Bill 1831 of the 1970 Regular Session of the Legislature of the State of Mississippi, as amended (43-37-1 et seq. and 43-39-1 et seq., MS Code of 1972).

Please review all pertinent chapters of the Right of Way Operations Manual.

The Property Clearance Manager of the Right of Way Division of MDOT administers and provides oversight of Relocation activities. This document provides details on the procedures for consistent execution of relocation activities. Relocation activities provide efficient, cost effective and uniform relocation benefits and services including advisory assistance, moving cost payments, replacement housing payments and other expense payments to ensure that individuals do not suffer disproportionate injuries because of a project designed for the benefit of the public.

1.0 Relocation Duties

Execution of Duties.

Relocation activities may be performed by MDOT staff or by a consultant contracted through MDOT contract processes, under the direction and review of the Property Clearance Manager and the Relocation Reviewer. The following are the oversight responsibilities of the Property Clearance Manager and Relocation Reviewer:

- Assign relocation activities to MDOT staff or consultants.
- Monitor MDOT relocation staff or consultants and relocation reviewer assignments for compliance with the Uniform Act (49 CFR 24; Subpart C), MDOT policies, procedures, and contract specifications for quality control.
- Resolve relocation problems and issues.
- Encourage relocation reviewers to be proactive in their assigned work to deal with new information and potential time delaying issues and problems before the relocation offer is submitted.
- Ensure MDOT staff and consultants are current with their professional training and qualified to accomplish the assigned work.
- Interpretation of official instructions and/or rules, contracts, or agreements.
- Ensure proper distribution of work products to other MDOT Right of Way Sections and

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Divisions or MDOT consultants.

- Return significantly incomplete product to the consultant and consider invoking contract provisions for dismissal of consultant.

1.1 Relocation Process.

The Property Clearance Manager will designate staff or a consultant to perform the following:

- Initial examination of property along with the appraiser and Relocation Reviewer (when possible)
- Initial contact with property owner to be displaced
- Determination of property type (Business, residence, non-profit)
- Coordination of data for relocation estimates is performed by Relocation agent
- Initial offer activities
- Coordination with displacees for relocation
- Inspection of new residence
- Oversight of claims
- Review of reimbursements related to relocation
- Oversee the move, document the progress of the move and confirm completion
- The ROW agents and consultants are provided access to the MDOT ROW Parcel Tracking System (PTS). All current ROW forms are contained and can be accessed in PTS.

1.2 Relocation Reviewer

A contract or staff relocation Reviewer reviews any documentation and computations for all relocation offers. Also, a Reviewer reviews all claims for payment and signs off on any invoices. The Relocation Reviewer also signs off on all files prior to closing them.

2.0 General Relocation Policies

2.1 Applicability.

The following requirements apply to the relocation of any permanently or temporarily displaced person. Any person who qualifies as a permanently or temporarily displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and this part. (See 49 CFR 24.202.)

2.2 Relocation – Right of Way Project Planning.

During the development of the environmental document for a project, the MDOT Environmental Division will develop a Preliminary Relocation Assistance Plan which is a standalone report comprised of multiple components. For more details on this report see the MDOT Environmental Manual, Section 5.1, Part D – Relocation Impacts. The plan may be used by MDOT Right-of-Way personnel at the completion of the project environmental document to initiate the right-of-way phase. MDOT ROW will complete its own study; however, this Preliminary Relocation Assistance Plan can be used in their work.

Prior to the authorization to acquire ROW for the project the Property Clearance Manager requests the staff working the project to provide the following information to the respective District

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Coordinator for the project relocation numbers of displacements:

an estimate of the number of households to be displaced, the types of dwellings, and ownership or tenancy status. If any special circumstances such as a displaced person with disabilities can be noted at that time, the agent should do so.

an estimate of the number, type and size of businesses, farms, and non-profit organizations to be displaced. This estimate should identify any non-residential displacements that may involve complex or lengthy moves.

an estimate of the number of replacement dwellings and sites available for both residential and non-residential displacements. This estimate should include a statement noting any housing ordinances or applicable codes that may affect replacement housing, or the ability of a non-residential displacements to relocate to an adequate replacement site.

consideration of any special relocation advisory services that may be necessary from MDOT and other cooperating Agencies.

Include any photos if applicable.

If there are no displacements or local housing occupancy ordinances or codes, notify the respective ROW District Coordinator of this fact in writing.

When ROW is acquired in early acquisitions and /or hardship cases or protective buying, relocation planning may be submitted on an individual basis.

Once relocation data is collected, the documentation should be submitted to the Relocation Reviewer for approval. The Reviewer forwards approved data to the District Coordinator.

2.3 Appeals.¹

Any aggrieved person may file a written appeal with MDOT if the person believes that MDOT has failed to properly consider his or her application for assistance. Within 30 days of receipt of the appeal, MDOT staff shall review and respond in writing to the appeal. If the aggrieved party remains unsatisfied, the aggrieved party must, within 30 days of receipt, notify MDOT in writing of his or her refusal to accept the decision of MDOT reviewing staff. The appeal shall then be referred to an independent hearing officer selected by the Office of the Attorney General. A recorded hearing will be held at a time and place and in the manner prescribed by the hearing officer not to exceed 60 days of receipt by MDOT. Further, appeals from this hearing shall be in accordance with Section 43-39-25 MCA 1972 annotated.

¹ 49 CFR 24.10.

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2.4 Availability of Comparable Replacement Dwelling before Displacement.²

Except in the case of an emergency move (a case involving a serious threat to life or property), a displacee is not required to move from his/her dwelling unless at least one (1) comparable replacement dwelling has been made available to the person.

2.5 Eligibility for Relocation Assistance.³

Occupants seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify that they meet the requirements for citizenship or residency in accordance with state and federal regulations.

2.6 Relocation Assistance Advisory Services.⁴

MDOT's relocation assistance advisory program satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., as amended), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 CFR 11527, November 24, 1962), and offers the services described in 49 CFR 24.205(c)(2).

2.7 Moving Payments.⁵

Residential displacements qualify for either actual, reasonable, and necessary moving expenses or moving expenses based upon a room count schedule (See Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, Fixed Residential Moving Cost Schedule in Relocation Forms Index). Nonresidential displacees qualify for actual, reasonable, and necessary moving expenses, other related expenses and/or a fixed payment. In addition to moving expenses, a small business, farm, or nonprofit organization also may be entitled to receive a reestablishment payment. Moving payments may be paid, regardless of whether the deed has been signed.

2.8 Replacement Housing Payments.⁶

A tenant or owner-occupant that meets certain eligibility requirements may be entitled to a replacement housing payment(s).

² 49 CFR 24.204(a-c).

³ 49 CFR 24.208.

⁴ 49 CFR 24.205(c)(1).

⁵ 49 CFR 24 Subpart D.

⁶ 49 CFR 24 Subpart E.

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3.0 Relocation Notices to Displacees

3.1 Manner of Notices.

Each notice which MDOT is required to provide to a property owner or occupant under this part, shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the relocation file. Each notice shall be written in plain, understandable language. People who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other need help. In the event that notices are sent via email, the above-mentioned means must also be utilized.

3.2 General Information Notice.

At an early stage of the project, MDOT provides general information about the project and the relocation program to people who might be displaced or may be required to move temporarily. The *Relocation Assistance Guide* is distributed at all related public meetings to all people who believe that they may have to move.⁷ The *Relocation Assistance Guide* provides a general written description of MDOT's relocation program including the following information:

- Informs the person that they may be displaced and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
- Informs the person that, if displaced, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.
- Informs the person that, if displaced, he or she will not be required to move without at least a 90-day advance written notice and informs any person to be displaced from a dwelling that he or she cannot be required to move unless at least one comparable replacement dwelling has been made available.
- Informs the person that aliens not lawfully present in the United States are ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child.
- Describes the person's right to appeal MDOT's determination as to his or her application for relocation assistance for which they may be eligible.

⁷ 49 CFR 24.203 (a) .

⁸ 49 CFR 24.203 (b) .

⁹ 49 CFR 24.203(c).

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3.3 Relocation Eligibility and Ninety Day Notice.⁸

MDOT issues a Relocation Eligibility and Ninety Day Notice [Eligibility Letter – Residence and Eligibility Letter – Business, Non-Profit or Farm ROW 701] on the same day or as soon thereafter as possible, as the FMVO is offered or other offer of just compensation to the property owner. If delivery on the same day is not possible, the Relocation Eligibility and Ninety Day Notice are delivered within ten (10) days. The Relocation Eligibility and Ninety Day Notice inform the displacee that:

- They will be displaced by the project and will be eligible for relocation benefits appropriate to their situation; and
- Residential occupants do not have to move until at least 90 days after receipt of notice of replacement housing availability.⁹ The 90-day period does not begin until at least one comparable dwelling is made available. The 90-day notice informs the displacee that in not less than 60 days MDOT will provide a second notice which will state a specific date by which a move will be required, and that this notice will provide no less than 30 days advance notice. MDOT must acquire the property in question or have the right of entry before issuing the 30-day notice.
- In unusual circumstances, an occupant may be required to vacate the property with less than 90 days advance written notice if MDOT determines that a 90-day period is impracticable because continued occupancy of the property would constitute a substantial danger to health or safety.¹⁰ The Division Director must approve an exemption from the 90-day period. A copy of MDOT's determination for exemption from the 90-day period is placed in the Master Relocation File and the Field File.

3.4 Thirty-Day Notice.

Once the Relocation Agent is notified that the right of way deed has been recorded (or MDOT has right of entry), and comparable replacement housing has been offered that is not based upon cost of new construction and a minimum of 60 days has passed since the 90-day notice was sent to the displacee, then the Relocation Agent sends a 30-Day notice [ROW 706] to the displacee notifying them that they have 30 days to relocate from the premises.

3.5 Notice of Intent to Acquire.

A notice of intent to acquire form ROW-701 is an MDOT written communication that is provided to a person to be displaced, including persons required to temporarily move, which clearly sets forth that MDOT intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance to the activity.

4.0 Relocation Advisory Services

4.1 Persons Eligible for Advisory Services.

There are five (5) categories of people eligible to receive advisory services:

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- (1) **A displaced person, lawfully present in the United States, who must move from real property to be acquired for the project,** most people to whom Relocation Agents provide advisory services fall into this category. This may include owners and tenants of residences, businesses, farms, and non-profit organizations and would also include temporary moves.
- (2) **People occupying real property adjacent to that being acquired are caused substantial economic injury by the acquisition.** While such people are not displaced people and, therefore, not entitled to relocation payments, MDOT does make available relocation assistance advisory services to them. For businesses, such services might include consultation on space needs, current market conditions, or traffic patterns or transportation as they relate to relocating the business, information regarding availability of relocation sites, or information about and referral to the Small Business Administration.
- (3) **Persons who occupy property which was acquired for the project and choose to relocate their adjacent residence, business or farm operation.** For example, the owner of a business that is being displaced by the project lives across the street in a dwelling which is not being acquired. When the business relocates across town, the owner chooses to move his/her residence also.
- (4) **Persons who move into property after MDOT acquires it and are permitted to occupy the property by short-term agreement subject to termination when the property is needed for the project.** In such cases, the tenants move in with the knowledge that they shall move out when the project requires and that they will not receive relocation payments to assist with the move. Such short-term occupants are entitled to advisory services.
- (5) **Persons who are unlawfully present in the United States who can demonstrate that denial of relocation benefits will result in an exceptional and extremely unusual hardship to the person's spouse, parent, or child (if that spouse, parent or child is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States).**

¹⁰ 49 CFR 24.203(c)(4).

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4.2 Required Advisory Services.

Relocation Agents provide a range of advisory services; however, MDOT must make available the following basic services to all displaced residential and non-residential displacements:

- Determine the relocation needs and explain advisory services and appropriate relocation by personal interview.
- Explain eligibility requirements for each relevant type of relocation payment and determine eligibility for payments of each displacee.
- Provide verbal and written information that only persons who are lawfully in the United States are eligible to receive relocation advisory assistance and payments.
 - Determine any special needs of the displacees that may require additional advisory assistance.
- Make every effort to help meet the needs identified, while recognizing the importance of displaced person's priorities and their desire, or lack of same, or assistance.
- Provide the following specific types of services for residential displacements as appropriate:
 - Provide current listings, including prices or rents, of replacement properties comparable to the acquired dwelling and explain that the displacee cannot be required to move until at least one comparable dwelling has been made available.
 - Inform the displacee in writing of the specific comparable replacement dwelling and the price used for establishing the upper limit of the replacement housing payments and the basis for the determination so that the person is aware of the maximum replacement housing payment for which he or she may qualify.
 - Provide information concerning federal and state housing and other programs offering relocation or related types of assistance, as needed.
 - Assist in obtaining and completing application or claim forms for relocation payment or other related assistance, as needed.
 - Offer transportation to inspect potential housing to which they are referred.
 - Where feasible, comparable housing shall be inspected prior to being made available to assure that it meets applicable decent, safe, and sanitary standards. If such an inspection is not made, the agency shall notify the person to be displaced in writing of the reason that an inspection of the comparable was not made and, that if the comparable is purchased or rented by the displaced person, a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.
 - Provide reasonable opportunities for minority persons, including those temporarily displaced, to relocate to decent, safe, and sanitary replacement dwellings not located in an area of minority concentration that are within their financial means. This policy, however, does not require MDOT to provide a person a larger payment than is necessary to enable to locate to a comparable replacement dwelling.
 - Advise any displaced person that may be eligible for government housing assistance at the replacement dwelling of any requirements of such government housing assistance program that would limit the size of the replacement dwelling, as well as the long-term

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nature of such subsidy and the limited duration of the relocation rental assistance payment.

- Provide specific non-residential advisory assistance, as appropriate:
 - Provide current listings, including prices or rents, of replacement properties suitable for displaced businesses, non-profits, or farms.
 - Determine the business replacement site requirements, current lease terms and other issues that may impact the business's ability to accomplish the move.
 - Determine the need for outside specialists to plan the move or to move and reinstall the personal property at the replacement location.
 - Identify and resolve the personal/realty issues prior to or at the time of the appraisal.
 - Estimate the length of time required for the business to vacate the acquisition site.
 - Provide information concerning federal, state and other programs offering relocation or related types of assistance, as needed.

5.0 Relocation Preparation Procedures

- Project Acquisition Kickoff Meeting

Upon receipt of the project start date, the ROW Operations Administrator schedules a "project kickoff meeting" depending on the scope and size of the project. The project kickoff meeting is a meeting of the entire Right of Way project team to establish the basic project objectives.
- Relocation Agent Map Review and Site Visit

The Appraiser(s), District Coordinator, Acquisition Agent(s) and Relocation Agent(s) involved in the project may participate in a site visit. They meet with the Project Engineer (who may ride the project with them) and discuss the acquisition objectives, timeline, and maps. The site visit helps the Relocation Agent to establish an understanding of the project including relocations, comparables needed, miscellaneous personal property, businesses, etc. The Relocation Agent inspects the route of the project and notes the status of staking and improvements situated in close proximity to proposed right of way.

5.1 Materials Furnished to Relocation Agents

Relocation Agents can obtain a copy of the ROW Acquisition Map, Plans, Appraisals and Title Work from the Parcel Tracking System. The Relocation Agents need to familiarize themselves with the appraisals, compare the measurements of the improvements and to be sure that any contributory value for major external attributes has been identified.

5.2 Relocation File Preparation

Prior to initial contact with each displacee, the Relocation Agent prepares a Relocation File for each displacee in the Parcel Tracking System. This file may include the following:

- *Relocation Assistance Guide* (always have several copies on hand)
- Appraisal [see Appraisal Form Index - ROW 023 or ROW 024]
- Review Appraiser's Estimate of Fair Market Value
- Business cards
- List of potentially contaminated sites or other environmentally-sensitive areas, including underground storage tanks
- Applicable forms, to possibly include:
 - Relocation Assistance Advisory Information – Non-Residential [ROW 679]
 - Relocation Assistance Advisory Information – Residential [ROW 680]
 - Relocation Assistance Officers Statement [ROW 681]

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- Inspection Report on Replacement Dwelling [ROW 688]
- Comparable Replacement Housing [ROW 689]
- Claim for Payment (Relocation Assistance) [ROW 690]
- Claim for Payment (Alternate Moving Cost – Method for Business, Farm, or Non-Profit) [ROW 691]
- Appeal [ROW 692]
- Increased Mortgage Interest Computation [ROW 696]
- Offer Letter (Dwelling) [ROW 697]
- Offer Letter (Dwelling Rental) [ROW 698]
- Offer Letter (Mobile Home Ownership – 180 Days or More) [ROW 699]
- Offer Letter (Mobile Home – Short Term Owner and Tenant) [ROW 700]
- Eligibility Letter – Residence
- Claim for Payment (Moving Expenses for a Business) [ROW 704]
- Offer Letter (Business or Farm) [ROW 705]
- 30-Day Notice [ROW 706]
- Eligibility Letter – Business or Farm [ROW 701]
- Relocation Assistance Personal Property Form [ROW 708]
- Computation of Rent Supplement Payments [ROW 712]
- Computation of Replacement Housing Payment for the owner of a mobile home and site (owner-occupant of 180 days or more [ROW 716]
- Computation of Replacement Housing Payment Based on Construction Costs (owner-occupant of 180 days or more [ROW 900]
- Computation of Replacement Housing Payment Based on Comparables (owner-occupant of 180 days or more [ROW 902]
- Replacement Cost New Estimate [ROW 903]
- Comparables Analysis Form [ROW 904]

5.3 Information Gathering Procedures

- **The Miscellaneous File**

The Property Clearance Manager will assign the Relocation Agents working on the project with specific items to collect for placement in the miscellaneous file base on the items identified at the site visit. Information gathered includes:

1. Typical lot range – The information regarding typical residential lot size is important in the calculation of the maximum price differential for owner occupants (e.g. carve-outs, determining whether or not the remainder is a buildable lot, lot size required when using new construction). Locate the most current local health systems and place in the miscellaneous file.
2. Grid for utilities – In each local community on a project, identify the local provider of utility services including: water, gas, electric, and propane as well as other heating and cooking fuels. Collect rate schedules from each provider for use in replacement housing calculations for 90-day residential occupants.
3. Collect estimates to move a minimum amount or small items of personal property for use in documenting the actual, reasonable and necessary costs to move such items. Such estimates could include: costs of a wrecker, truck, trailer, or other transportation requirements, local labor and equipment rental rates (amount that

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- would be paid not charged for such services exclusive of overhead and profit), and/or bids to move small signs or other specific items identified on the site visit.
4. A copy of the most current Annual Survey of Income Limits as developed by the U.S. Department of Housing and Urban Development.
 5. A list of current exclusions to household income as posted on the FHWA website found at: https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/exclusions.cfm.
 6. Other items identified to be required for more than one displace that would be cost-effective to include for use by all Relocation Agents on a particular project.

- **The Comparable File**

The detailed information obtained about each listing collected for potential use as a comparable replacement property on residential relocations is contained in the comparable file in the Parcel Tracking File Room. The file should contain a list that shows these properties for sale and those for lease/rent and farther divided by size, bedroom/bathroom count etc. The lead Relocation Agent is responsible for the maintenance of the comparable file. However, all Relocation Agents should contribute any listings identified by them and update all existing listings when a change in the property or its availability has occurred.

The Relocation Agent inspects all comparable replacement housing prior to its being made available to a displacee to ensure that applicable standards are met.ⁱ Elements of inspection include comparison of housing features to displacement dwelling, square feet heated and cooled, and visual inspection to check for DSS requirements. In addition, Relocation Agents will provide listings of potential replacement properties to the displacee.

5.4 Initial Displacee Contact

The Relocation Agent meets with every displacee. If the Relocation Agent has a telephone number for the displacee, the displacee will be called to set a meeting for the initial interview. If a telephone number is not available, the Relocation Agent may stop by the property and set up a meeting in person. If the displacee is not available, the Relocation Agent leaves a business card and a note requesting that the displacee contact him or her. During the initial contact, either on the telephone or in person, the Relocation Agent does the following:

- Identifies themselves as a Relocation Agent of MDOT and provides their name, title, and telephone number (via a business card, if in-person).
- Explains that the property on which the displacee lives (or runs a business) is being acquired as part of a transportation project and that the displacee will be provided with relocation assistance.
- Requests a meeting to discuss the displacee's relocation eligibility. This meeting is occasionally arranged jointly with the Appraiser, as applicable.ⁱⁱ
- Provides displacee with a copy of the *Relocation Assistance Guide* (if in-person).
- Documents all attempts to contact and meet with the displacee on the Relocation Assistance Officer Statement [ROW 681].
- Certifies each person seeking relocation payments or relocation advisory assistance that they are either a citizen or national of the United States, or an alien who is lawfully present in the United States (49 CFR 24.208).

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5.5 Initial Displacee Contact – Relocating Miscellaneous Personal Property Only

If only miscellaneous personal property is being relocated and the displacee(s) is unable to meet, the Relocation Agent may send an initial contact package to the displacee. In most other cases, the Relocation Agent must meet with displacee. The initial contact package includes:

- Contact Letter – Miscellaneous Property Only
- Relocation Assistance Advisory Information [ROW 679]
- Relocation Assistance Personal Property Form [ROW 708]
- *Relocation Assistance Guide*

The initial contact package is sent by certified/registered mail, return receipt requested.ⁱⁱⁱ The Relocation Agent documents that they were unable to contact the displacee and retains mail receipts in the Relocation File. In the case of miscellaneous personal property moves, the Relocation Agent may correspond with the property owner via telephone or mail.

5.6 Initial Displacee Meeting

The Relocation Agent conducts a personal interview with each displacee to determine their relocation needs and preferences. The Relocation Agent explains the relocation payments and other assistance for which the displacee may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance.

Relocation Agents make every possible effort to meet with the displacee in person or, at least, by telephone. Under no circumstances does a Relocation Agent go onto the property of a property owner who has forbidden access to his or her property. If relocation is a factor, both an Appraiser and Relocation Agent are involved in the initial meeting, when feasible.^{iv} The Relocation Agent brings the following items to the initial displacee meeting:

- Appropriate Relocation Advisory Information [ROW 680 for residential; or ROW 679 for non-residential and ROW 708 for personal property]
- Several copies of the *Relocation Assistance Guide*
- Relocation File
- Tape measure
- Camera
- ROW Acquisition Map
- Business cards

During the initial displacee meeting, the Relocation Agent conducts the following actions:

1. Provide displacee with a copy of the *Relocation Assistance Guide* and Relocation Agent's business card.
2. Review, complete, and request that the displacee(s) signs the certificate of eligibility on the Relocation Advisory Information [ROW 680 for residential; or ROW 679 for non-residential and ROW 708 for personal property]. In some instances, these forms are completed at follow-up visits.
3. Measure improvements and sketch displacement dwelling. If possible, the Appraiser and Relocation Agent measure the improvements together. Both draft a plot of the improvement(s) to be acquired and then meet to resolve any differences in measurement.

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4. Photograph improvements and/or personal property (particularly areas that are outside of the room count identified by the appraisal such as attic spaces, sheds, basements, garages).

If a displacee(s) refuses to sign a specific document, the Relocation Agent notes that refusal on the form and in the Relocation Assistance Officers Statement [ROW 681]; however, the Relocation Agent pursues that signature throughout the relocation process.

Upon completion of the initial displacee meeting, the Relocation Agent prepares the following:

1. Relocation Assistance Officers Statement [ROW 681] to document the initial displacee meeting. This and all entries in form ROW 681 should be specific to the interaction that took place at the meeting and identify all primary topics of conversation, all correspondence given and received, and all advisory services provided. Follow-up with displacees should occur at a minimum of every two weeks beginning with the initial meeting and such follow-up should be documented.
2. If Relocation Agent does not conduct the initial displacee meeting with the Appraiser present, consult with the Appraiser regarding the identification and listing of all items of real versus personal property. The Appraiser identifies the real or personal nature of every improvement in the appraisal report regardless of contributory value. Every effort must be made to do this prior to, or at the time of, the appraisal. For mobile homes, the Appraiser bases the determination on the answers to the following questions:
 - How is the mobile home affixed to the property?
 - Have the wheels and axles of the mobile home been removed?
 - Does the mobile home owner file for homestead exemption at the County Tax Assessors Office?
 - Does the mobile home have any additions to the original structure (i.e. rooms, deck, roof)?
 - Has the mobile home been anchored and blocked?
 - Can the home be moved?
3. Use improvement measurements and dwelling sketches to compute square footage. Significant differences between Appraiser and Relocation Agent square footages must be reconciled.
4. Copy all forms, attach pictures, and send originals to the Relocation Section and place copies in the field files.

5.7 Eligibility – Citizenship¹¹

Relocation Agents explain eligibility requirements for each relevant type of relocation payment and determine each displacee's eligibility for payments. Relocation Agents also provide verbal and written information explaining persons without a legal right to be in this country are not eligible to receive relocation payments. Displacees certify their eligibility by signing the certificate of eligibility on ROW 680 for residential or ROW 679 for non-residential and ROW 679 for personal property. The forms include a statement attesting to their eligibility for relocation payments based on citizenship or a legal right to reside in the country.

Each person seeking relocation payments or relocation advisory assistance shall, as a

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condition of eligibility, certify:

- In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

5.7.1 In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. This certification may be made by the head of household on behalf of family members.

5.7.2 In the case of an unincorporated business, farm, or nonprofit organization, that each property owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal property owner, manager, or operating officer on behalf of other persons with an ownership interest.

5.7.3 In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States. In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to that member. Any payment(s) for which such occupant would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

The Relocation Agent considers the certification provided by the individual to be valid, unless MDOT determines that it is invalid based on information that MDOT considers reliable and appropriate that triggers a review of an alien's documentation.

Any review of the certifications described in this section shall be conducted in a nondiscriminatory fashion. All Relocation Agents apply the same standard of review to all such certifications, except that such standard may be revised periodically.

If, based on a review of an alien's documentation or other credible evidence, MDOT has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, MDOT obtains the following information before making a final determination:

(1) For a person who has certified that they are an alien lawfully present in the United States, DOT shall obtain verification of the person's status by using the Systematic Alien Verification for Entitlements (SAVE) program administered by the U.S. Citizenship and Immigration Services (USCIS) to verify immigration status.

(2) For a person who has certified that they are a citizen or national, if the MDOT has reason to believe that the certification is invalid, MDOT shall request evidence of United States citizenship or nationality and, if considered necessary, verify the accuracy of such evidence with the issuer or other appropriate source.

(3) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not

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lawfully present in the United States, unless such person can demonstrate to MDOT's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.

(4) For purposes of section 3 above,, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

- (1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child.
- (2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or
- (3) Any other impact that MDOT determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.
- (5) The certification of eligibility of this section may be included as part of the claim for relocation payments.
- (6) The FHWA- Mississippi Division Office can aid in determining the appropriate agency for citizenship verification.

5.8 Eligibility – Lawful Occupancy.¹²

Any person who occupies the real property, either in person or via personal property, and is in lawful occupancy on the date the FMVO is provided, is presumed to be entitled to relocation payments and other assistance set forth in this part unless MDOT determines that:

- (1) The occupant received an eviction notice prior to the provision of the FMVO and, because of that notice, is later evicted; or
- (2) The occupant is evicted after the provision of the FMVO for serious or repeated violation of material terms of the lease or occupancy agreement; or
- (3) In either case, the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

¹¹ 49 CFR 24.208.

¹² 49 CFR 24.206.

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6.0 Residential Relocation Process

Residential displacees are entitled to moving expenses, replacement housing payments (RHP), incidental expenses and advisory services. Eligibility is based on the status as an owner or tenant, the length of occupancy in the residence at the time of the FMVO, and the status as a United States resident. To receive any or all the calculated RHP, the displacee must occupy a DSS property within the prescribed period and file a claim within the prescribed period. Displacees must spend at least the amount determined to receive the full amount of the RHP.

6.1 Residential Move.

Any owner-occupant or tenant who qualifies as a displaced person and who moves from a dwelling including a mobile home, is entitled to payment of his or her actual, reasonable and necessary moving and related expenses. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment, the homeowner-occupant is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

6.2 Moves from a Dwelling.

A displaced person's actual, reasonable, and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods:

- Commercial move(s) performed by a professional mover.
- Self-move(s) that may be performed by the displaced person in one or a combination of the following methods (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section):
 - Fixed Residential Moving Cost Schedule. Eligible displacees (including seasonal residents) are entitled to a fixed payment based on the number of rooms containing personal property. The Relocation Agent should determine the number of eligible rooms before starting a move. A "room" is a space in a dwelling containing the typical quantity of household furniture, appliances, or other personal property. This includes living rooms, dining rooms, kitchens, family rooms, and bedrooms. Other rooms, garages or storage areas may be counted as additional rooms. Most bathrooms do not count as a room. (See 49 CFR 24.302).
 - Actual Cost Move. Supported by receipted bills for labor and equipment. Hourly rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.
 - A moving cost estimates. Prepared by a qualified agency staff person, as developed from the agency's thorough review of the personal property to be moved, and documented estimated costs for materials, equipment, and labor. Hourly labor rates

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should not exceed the cost paid by a commercial mover for moving staff. Costs for moving residential personal property that requires special handling should not exceed the hourly rate for a commercial specialist. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover. The cost of materials should equal those readily available locally.

- Commercial mover estimate. Based on the lower of two bids from a commercial mover. Federal funding agencies may establish policies and procedures which require its grantees to calculate and subtract an estimated amount of overhead and profit from the moving cost bids to establish a reimbursement eligibility.

6.3 Moves from a Mobile Home.

A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods (in addition to the items in Section 6.2, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in Section 7.1 (C):

- Commercial move(s) performed by a professional mover.
- Self-move(s) that may be performed by the displaced person in one or a combination of the following methods (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section):
 - Fixed Residential Moving Cost Schedule. Eligible displacees (including seasonal residents) are entitled to a fixed payment based on the number of rooms containing personal property. The Relocation Agent should determine the number of eligible rooms before starting a move. A "room" is a space in a dwelling containing the typical quantity of household furniture, appliances or other personal property. This includes living rooms, dining rooms, kitchens, family rooms, and bedrooms. Other rooms, garages or storage areas may be counted as additional rooms. Most bathrooms do not count as a room.
 - Actual Cost Move. Supported by receipted bills for labor and equipment. Hourly rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

6.4 Eligible Actual Moving Expenses

A displaced person is entitled to payment for the following:

- Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless MDOT determines that relocation beyond 50 miles is justified.
- Packing, crating, unpacking, and uncrating of the personal property.

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- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Storage of the personal property for a period not to exceed 12 months, unless MDOT determines that a longer period is necessary. The need for storage must be documented and pre-approved.
- Insurance for the replacement value of the property in connection with the move and necessary storage.
- The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering loss, theft, or damage is not reasonably available.
- Other moving-related expenses that are not listed as ineligible, as MDOT determines to be reasonable and necessary.
- The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring unit, and utility “hook-up” charges.
- The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or MDOT determines that payment of the fee is necessary to effect relocation.

6.5 Moving Expenses.

A displaced person is not entitled to payment for the following:

- The occupant received an eviction notice prior to the provision of the FMVO and, as a result of that notice, is later evicted; or
- The occupant is evicted after the provision of the FMVO for serious or repeated violation of material terms of the lease or occupancy agreement; or
- In either case, the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

7.0 Replacement Housing Payment

A homeowner or tenant refers to a person who is displaced from a dwelling may either own (homeowner) or rent (tenant), and who may be eligible for a replacement housing payment if they meet specific criteria regarding the length of occupancy in their previous dwelling, usually requiring at least 90 days of continuous residency before displacement. Depending on whether the displaced person chooses to rent or purchase a new dwelling, they may be eligible for a rental assistance payment or a down payment assistance payment.

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I. Owner-Occupant of at Least 90 Days. (49 CFR 24.401)

A. Eligibility Requirements

A 90-day owner-occupant is entitled to replacement housing payments if:

- He or she is in possession and occupancy at the initiation of negotiations for the acquisition of the real property.
- Such occupancy and possession have been for at least 90 days immediately prior to the initiation of negotiations.
- The property was acquired by MDOT, or MDOT issued an order to vacate even though the property is not acquired.
- The displacee purchases and occupies a DSS dwelling within a one (1) year period beginning on the latter of the following dates:
 - a. The date the person receives final payment for the acquired dwelling, or in the case of condemnation, the date the amount is deposited in the court, or
 - b. The date MDOT makes comparable replacement housing available.
- The claims for the payments must be submitted to MDOT not later than 18 months from the latter of :
 - a. The date the person receives final payment for the acquired dwelling, or
 - b. The date the person moves from the acquired dwelling.

B. Replacement Housing Payments

Replacement housing payments are limited to an amount up to the cost of the comparable replacement dwelling within one (1) year from the date the displaced owner occupant is paid for the displacement dwelling or the date a comparable replacement dwelling is made available to such person, whichever is later. The payments include:

- The amount by which the cost of the comparable replacement dwelling exceeds the acquisition cost of the displacement dwelling (price differential);
- Compensation for the loss of favorable financing on the existing mortgage such as increased interest costs and other debt service costs which are incurred in connection with the mortgagees on the replacement dwelling;
- The reasonable one-time expenses incidental to the purchases of the replacement dwelling.

The combined total of these amounts may not exceed the \$41,200 limit allowed by FHWA except as provided in last resort housing. If the displaced owner elects to rent a replacement he or she may be eligible for a rental assistance payment not to exceed what he or she would have received under the price differential option.

C. Price Differential (ROW FORM 900 Price Differential)

The price differential to be paid is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

- (1) The reasonable cost of a comparable replacement dwelling, or;
- (2) The purchase price of the decent, safe, and sanitary replacement dwelling actually

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purchased and occupied by the displaced person.

The upper limit of a price differential shall be based on the cost of a comparable replacement dwelling, considering the following:

- If available, at least three comparable replacement dwellings shall be examined and the limit computed on the dwelling most nearly representative of, and equal to or better than, the displacement dwelling;
- If the site of the comparable chosen lacks a major exterior attribute of the displacement dwelling site (e.g. the site does not have a swimming pool), the contributory value of such attribute shall be subtracted from the acquisition cost of the displacement property for the purpose of calculating the upper limit;
- If the acquisition portion of a typical residential property causes the displacement of the owner and the remainder is not a buildable residential lot, MDOT may offer to purchase the entire property. If the owner chooses not to sell the remainder, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for the purpose of calculating the upper limit.
- If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered.
- If the displacement dwelling has a carport and the comparable does not have a carport or a reasonable trade-off, the cost of the replacing carport is added to the price of the comparable before the price differential is calculated.
- To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling.
- When the displacement property is appraised at a higher and better use (land as vacant), use the acquisition cost for the land area that represents a typical lot size plus the contributory value of the dwelling as indicated in the appraisal.
- If the occupant has a partial interest ownership, the price differential will be computed in the normal manner. The occupant's actual share of the acquisition will not be taken into account for the original calculation. However, if the occupant spends his or her share of the acquisition plus the amount of the price differential for a DSS replacement dwelling, he or she may receive the full price differential.

D. Owner Retention

If the owner retains ownership of the dwelling, moves it from the displacement site and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

- (1) The cost of moving and restoring the dwelling to the condition of the improvement prior to the move; and
- (2) The cost of making the unit a decent, safe, and sanitary replacement dwelling; and

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- (3) The current fair market value for residential use of the replacement site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
- (4) The retention value of the dwelling, if such retention value is reflected in the “acquisition cost” used when computing the replacement housing payment.

E. Increased Interest Payment [ROW FORM 696, Increased Mortgage Interest]

The increased interest payments are to compensate for the additional expense, if any, by paying for a higher interest rate for a new mortgage on a replacement property than the displacee was paying on an existing mortgage on the property acquired, plus other debt service costs paid by the displacee, if not paid as an incidental expense.

To be eligible, the acquired dwelling must have been encumbered by a bona fide mortgage that was a valid lien for at least 90 days prior to the initiation of negotiations. Reimbursement for purchaser points and/or a loan origination fee also are possible, if such fees are normal to real estate transactions in the area. The payment for increased mortgage interest cost is equal to the amount that will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling.

Computation of the increased mortgage interest costs payment, which is contingent upon a mortgage being placed on the replacement dwelling, is calculated as follows:

- (1) The payment is based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) compute in the buy down determination the payment is prorated and reduced accordingly. In the case of a home equity loan the unpaid balance is that balance which existed 90 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.
- (2) The payment is based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.
- (3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.
- (4) Purchaser’s points and loan origination or assumption fees, but not seller’s points, shall be paid to the extent: they are not paid as incidental expenses, they do not exceed rates normal to similar real estate transactions in the area, MDOT determines them to be necessary, and the computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person’s current mortgage(s) are known and the payment shall be made available at or near the time of

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closing on the replacement dwelling to reduce the new mortgage as intended.

FHWA's MIDP form may be used and submitted with payment requests. The form located on their website at : https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/midpcalcs/

F. Incidental Expenses

Reimbursable incidental expenses are those actual, reasonable and necessary costs incurred by the displaced person incident to the purchase of a replacement dwelling provided such expenses are non-recurring and customarily paid by the buyer.

When there is no bona fide mortgage on the displacement property, the incidental expenses associated with obtaining financing on the replacement property are not considered to be necessary and therefore, not eligible for reimbursement. However, if MDOT determines that the displacee needs to obtain a loan to relocate (as in a partial interest owner-occupant), then the cost of obtaining the loan could be considered necessary.

When purchasing a DSS replacement, examples of eligible incidental expenses include the following:

- Legal, closing, and related costs including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;
- Lender, FHA, or VA appraisal fees;
- FHA or VA application fee;
- Professional home inspection, certification of structural soundness and termite inspection;
- Up to 120 days of construction cost interest up to the cost of the comparable, if replacement housing offer is based upon construction cost new;
- Engineer's Inspection Report;
- Escrow agent's fee;
- Owner's and mortgagee's evidence of title; or
- Other costs as MDOT determine to be necessary.

Reimbursable incidental expenses, however, do not include prepaid expenses such as real estate taxes and property insurance.

Incidental expenses based on the price of the replacement dwelling, such as title insurance, are limited to the amount based on the listing price of the comparable.

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II. Replacement Housing Payment for 90- Day Tenants and Certain Others (Less than 90-Day Owner and Less than 90-Day Tenant) (49 CFR 24.402 and 49 CFR 24.404 (c) (3))

A displaced 90-day *tenant* or less than 90-day *owner* is eligible for rental assistance or down payment assistance, in accordance with the \$9,570 limit allowed by FHWA. See **Section III** below for eligibility requirements and Replacement Housing Payment information for those displaced person(s) determined by MDOT to be Less Than 90-Day Tenant(s).

A. 90 – Day Tenant and less than 90-Day Owner - Eligibility Requirements

A displaced residential tenant(s) of at least 90 days or a less than 90-day owner(s), is entitled to a payment in accordance with the \$9,570 limit allowed by FHWA for rental assistance or down payment assistance if the displaced person(s) meets the following criteria:

- The tenant actually and lawfully occupied the displacement dwelling for at least 90 days immediately before the initiation of negotiations; and
- The tenant and/or owner rented or purchased, and occupied a DSS replacement dwelling within one year (unless MDOT extends the time) after the following dates:
 - For 90-day tenants, the date of move from the displacement dwelling or the MDOT vacating date whichever is earlier.
 - For owner(s) of less than 90-days, the later of the date the displaced owner(s) receives final payment for the displacement dwelling, or for eminent domain proceedings, the date the full amount of the estimate of just compensation is deposited into the court, or the date of the move from the displacement dwelling.

B. Replacement Housing Payments – Rental Assistance Payments

The rental assistance payment shall be 42 times the amount not to exceed the \$9,570 limit. The payment is calculated by subtracting the base monthly rent for the displacement dwelling from the lesser of:

- (1) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- (2) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling occupied by the displaced person, or
- (3) The base monthly rental for the displacement dwelling is the lesser of:
 - The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by MDOT;
 - Thirty (30) percent of the person's average gross household income. Thirty (30) percent of the person's average gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and

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Section 8 Programs. The base monthly rental shall be established solely on the criteria in 1 above of this section for persons with income exceeding the Survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise;^v (The Survey's income limits are updated annually and are available on FHWA's website at https://www.fhwa.dot.gov/real_estate/low_income_calculations/index.cfm)

or

- The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

C. Down Payment Assistance Payment

An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment in the amount calculated for the rental assistance payment. At the discretion of MDOT, a down payment assistance payment may be increased to any amount not to exceed the amount the person would receive under a rental assistance payment of \$9,570. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive if he or she met the 90-day occupancy requirement. MDOT's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 90-day owner occupant is not eligible for this payment.

Alternatively, tenants of at least 90 days are eligible for assistance toward expenses related to the purchase of a replacement dwelling (down payment and other incidental expenses incurred in the purchase of a replacement dwelling) up to the limit allowed by FHWA or the amount of the rent supplement, whichever is greater, may be used toward expenses related to the purchase of a replacement dwelling.

III. Less Than 90 Day Tenant. (49 CFR 24.402 and 24.404 (c) (3)

A. Eligibility Requirements

Displaced person(s) who has occupied the displacement dwelling for a period of less than 90 days prior to the initiation of negotiations or who took occupancy after the initiation of negotiations fails to meet the required 90-day occupancy requirements. However, the displaced person (s) is eligible for replacement housing payments not to exceed the \$9,570.00 limit to cover a period of 42 months. Because this occupant did not meet the length of occupancy requirements, any payment is considered a last resort housing payment calculated using the same method as those for a displaced person who meets the length of occupancy requirement rental assistance or downpayment assistance.

B. Replacement Housing Payments

The rental assistance payment and/or downpayment assistance payment shall be

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calculated as II B. above. The down payment assistance payment shall not exceed the amount the person would receive under a rental assistance payment. The payment may be made in a lump sum, or it may be paid in installments.

7.1 Mobile Home Relocation. (ROW Form 700 Mobile Homeowner – Tenant)

The Appraiser determines whether the mobile home is real or personal property in the appraisal report. Length of ownership and occupancy of the mobile home and not the land, determines the occupant's status as a 90-day owner or a 90-day tenant. The occupant must occupy the mobile home on the site for the required 90 days to be eligible for the homeowner or tenant replacement housing payment. Such a displaced person is entitled to:

- (1) A moving expense payment in accordance with 49 CFR 24 Subpart D and
- (2) A replacement housing payment in accordance with 49 CFR Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Eligible moving cost payments to persons occupying mobile homes are covered in 49 CFR 24.301.

The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If MDOT determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be a displaced person who is entitled to relocation payments and other assistance under this part.

- **Replacement housing payment for 90-day mobile homeowner displaced a mobile home and/or from the acquired mobile home site.**

An owner-occupant displaced from a mobile home who meets the eligibility requirements in 49 CFR 24.502 (a) is entitled to a replacement housing payment, not to exceed \$41,200.

- **Replacement housing payment computation for a 90-day owner that is displaced from a mobile home.**

The replacement housing payment for an eligible displaced 90-day owner is computed as a homeowner – occupant described at 49 CFR 24.401 (b) incorporating the following, as applicable:

- (1) MDOT acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.
- (2) If MDOT does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on 49 CFR 24.502 (a) (1) (iii), the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner occupant's net cost to purchase a replacement mobile home or, the cost of a MDOT selected comparable mobile home less

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the MDOT estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed based on the reasonable cost of a conventional comparable replacement dwelling.

- **Replacement housing payment for a 90-day owner-occupant that is displaced from a leased or rented mobile home site.**

If the mobile homeowner-occupant's site is leased or rented, a 90-day owner-occupant is entitled to a rental assistance payment computed as described in 49 CFR 24.402 (b). This rental assistance payment may be used to lease a replacement site, may be applied to the purchase price of a replacement site, or may be applied, with any replacement housing payment attributable to the mobile home, toward the purchase of a replacement mobile home and the purchase or lease of a site or the purchase of a conventional decent, safe, and sanitary dwelling.

- **Owner-occupant not displaced from the mobile home.**

If MDOT determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at 49 CFR 24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in Mobile Home section as applicable.

- **Replacement housing payment for 90-Day mobile home occupants**

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed \$9,570, under 49 CFR 24.402 if:

(a) The person occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations.

(b) The person meets the other basic eligibility requirements for tenants under 49 CFR 24.402 (a)

(c) The agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the agency, but the agency determines that the occupant is displaced from the mobile home because of one of the following circumstances:

- (i) Is not, and cannot economically be made decent, safe, and sanitary.
- (ii) Cannot be relocated without substantial damage or unreasonable cost.
- (iii) Cannot be relocated because there is no available comparable replacement site; or
- (iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

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Last Resort Housing (ROW FORM 900 PRICE DIFFERENTIAL- LAST RESORT HOUSING)

Whenever MDOT cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, MDOT shall provide additional or alternative assistance. Any decision to provide last resort housing assistance must be adequately justified either by:

1. On a case-by-case basis, appropriate consideration has been given to:

- The availability of comparable replacement housing in the program or project area.
- The resources available to provide comparable replacement housing; and
- The individual circumstances of the displaced person; or

2. By a determination that:

- There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;
- A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
- The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

The methods of providing last resort housing include, but are not limited to the following:

- Rehabilitation of and/or addition to an existing replacement dwelling.
- Construction of a new replacement dwelling.
- Provision of a direct loan.
- Provision of a replacement housing payment. All payments exceeding federal limits will be considered and documented as last resort housing. A rental assistance subsidy under this section may be provided in installments.
- Relocation and, if necessary, rehabilitation of an existing dwelling.
- Purchase of land and/or replacement dwelling by MDOT and subsequent sale or lease to or exchange with a displaced person.
- Removal of barriers to disabled persons.
- Change in status, with the displaced person's consent, from tenant to homeowner when it is more cost effective to do so, as in cases where a down payment may be less expensive than a last resort rental assistance payment; and
 - Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the replacement dwelling such as the use of a mobile home to replace a very substandard or non-decent, safe, and sanitary conventional dwelling, only a portion of which is being used as living quarters by the occupants. However, in all cases the replacement dwelling must be adequate to accommodate the displaced person and be functionally equivalent to the displacement dwelling.

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A displaced person shall not be required to move into a dwelling that is not functionally equivalent in accordance with the comparable replacement housing requirements stated in 49 CFR 24.2. Additionally, MDOT is required to provide assistance to a displaced person who is not eligible to receive a replacement housing payment because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. Rental assistance shall cover a period of 42 months.

7.2 Recalculating Replacement Housing Payment

A replacement housing payment to an owner-occupant must be recalculated when the tract is acquired through condemnation or administrative settlement. The amount of the final court award or the amount of final settlement is to be used to calculate the replacement housing payment in lieu of the original approved offer for the acquisition of the property.

.1 Non-Residential Relocation

8.1 Non-Residential Move.

The Relocation Agent shall inform the business, farm, or nonprofit organization, and persons required to move temporarily, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. The Relocation Agent is required to provide estimates and provides moving expenses to the displacee. MDOT is not obligated to make available a replacement site, however, listings of available suitable replacement sites, if any, and other relocation advisory services shall be provided. To be eligible for reimbursement for the actual reasonable moving expenses, the displacee is required to:

- (1) Provide MDOT with reasonable advance notice of the approximate date of the start of the move or disposition of personal property; and
- (2) Assist MDOT with an inventory of the items of personal property to be moved; and
- (3) Permit MDOT to make reasonable and timely inspections of personal property at both the displacement and replacement sites, and to monitor the move.

Displaced businesses (including landlords of rental property, if qualified), farm operations, and nonprofit organizations are entitled to reimbursement of moving and related expenses for the removal and installation of personal property which is required to be moved because of the acquisition. A displacee's actual, reasonable, and necessary moving expenses may be determined based on the cost of one, or a combination of the following methods:

A. Commercial Moves

Commercial moves are moves provided through the services of a professional moving company and are based on the lower of two bids or estimates prepared by a commercial mover. At MDOT's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate. All expenses must be supported by receipted bills.

B. Self-Moves

Self-moves are moves that may be performed by the displaced person in one or a combination

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of the following methods:

- (1) Self-move based on the lower of two (2) estimates prepared by a commercial mover or MDOT staff. If the nonresidential displacee elects to take full responsibility for all or part of the move, MDOT may approve a payment for moving expenses in an amount not to exceed the lowest acceptable bid or estimate. This payment is based on a certified inventory of the personal property and can be claimed without submission of any additional documentation. At MDOT's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or
- (2) Actual cost move which is supported by receipted bill for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.
- (3) MDOT staff may develop a move cost finding by estimating and determining the cost of a small uncomplicated nonresidential personal property move of \$5,000 or less, with the written consent of the person. This estimate may include only the cost of moving personal property which does not require disconnect and reconnect and/or specialty moving services necessary for activities including crating, lifting, transportation, and setting of the item in place.

All expenses must be supported by estimates and/or receipts.

C. Personal property only.

Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm, or nonprofit organization include those expenses in Section D of this section.

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Advertising signs

The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

- (1) The depreciated reproduction cost of the sign, as determined by the agency, less the proceeds from its sale; or
- (2) The estimated cost of moving the sign, but with no allowance for storage.

D. Eligible Actual Moving Expenses 49 CFR 24.301

- Transportation of the displaced person and personal property.
 - Transportation costs for a distance beyond 50 miles are not eligible, unless MDOT determines that relocation beyond 50 miles is justified.
- Packing, crating, unpacking, and uncrating of the personal property.
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated personal property, this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
- Storage of the personal property for a period not to exceed 12 months, unless MDOT determines that a longer period is necessary. The need for storage must be documented and pre-approved.
- Insurance for the replacement value of the property in connection with the move and necessary storage.
 - The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
 - A displaced tenant is entitled to reasonable reimbursement, as determined by the agency, for actual expenses not to exceed \$1,000, incurred for rental replacement dwelling application fees or credit reports required to lease a replacement dwelling.
 - Other moving-related expenses that are not listed as ineligible, as MDOT determines to be reasonable and necessary.
 - The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.
 - The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.
 - The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced or temporarily moved

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from a mobile home park or the agency determines that payment of the fee is necessary to effect relocation.

- Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.
- Professional services as MDOT determines to be actual, reasonable and necessary for:
 - Planning the move of the personal property;
 - Moving the personal property; and
 - Installing the relocated personal property at the replacement location.
- Re-lettering signs and replacing stationary on hand at the time of displacement that is made obsolete as a result of the move.
- Actual direct loss of tangible personal property incurred because of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:
 - a. The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless MDOT determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices); or
 - b. The estimated cost of moving the item as is, but not including any allowance for storage, or for reconnecting a piece of equipment if it is in storage or not being used at the acquired site. If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of fifty (50) miles.
- The reasonable cost incurred in attempting to sell an item that is not to be relocated.
- Purchase of substitute personal property. If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:
 - a. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
 - b. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At MDOT's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.
- Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed the \$5,000 limit allowed by FHWA as MDOT determines to be reasonable, which are incurred in searching for a replacement location, including:
 - Transportation;
 - Meals and lodging away from home;
 - Time spent searching, based on reasonable salary or earnings;

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- Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;
 - Time spent in obtaining permits and attending zoning hearings;
 - Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

All such expenses, except actual time spent in search and the actual value of time and mileage driven in a personal vehicle must be supported by receipted bills. Payment for actual time spent searching shall be based on the current hourly wage of the person(s) conducting the search, but may not exceed \$20 per hour. Actual mileage claimed for use of a personal vehicle in search shall not exceed the prevailing rate authorized for reimbursement to state employees for use of a personal vehicle. A daily log of time spent and mileage must be kept. A certified statement of time spent, hourly wage(s), and mileage driven shall accompany the claim.

MDOT may with approval from FHWA, on a program wide or project basis, allow a one-time payment of \$1,000 for search expenses with minimal or no documentation as an alternative payment method than the limit of \$5,000. MDOT must develop a plan for the use of the one-time payment and the plan approved by FHWA.

Low value/high bulk. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of MDOT, the allowable moving cost payment shall not exceed the lesser of:

- a. The amount which would be received if the property were sold at the site; or
- b. The replacement cost of a comparable quantity delivered to the new business location.

Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, metals and other similar items of personal property as determined by MDOT.

B. Ineligible Moving and Related Expenses

A displaced person is not entitled to payment for:

- The cost of moving any structure or other real property improvement in which the displaced person reserved ownership;
- Interest on a loan to cover moving expenses;
- Loss of goodwill;
- Loss of profits;
- Loss of trained employees;
- Any additional operating expenses of a business or farm operation incurred because of operating in a new location;
- Personal injury;
- Any legal fees or other costs for preparing a claim for a relocation payment or for representing the claimant before the Agency;
- Expenses for searching for a temporary or replacement dwelling which include costs for mileage, meals, lodging, time and professional real estate broker or attorney's fees;

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- Physical changes to the real property at the temporary or replacement location of a business or farm operation;
- Costs for storage of personal property on real property already owned or leased by the displaced person, and
- Refundable security and utility deposits.
- Cosmetic changes to a replacement or temporary dwelling, which are not required by State or local law, such as painting, draperies, or replacement carpet or flooring.

8.2 Related Non-Residential Eligible Expenses.

The following expenses, in addition to those provided for moving personal property, shall be provided if MDOT determines that they are actual, reasonable and necessary:

- Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
- Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including, but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). A reasonable pre-approved hourly rate must be established
- Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by MDOT.

Transfer of ownership (nonresidential).

Ownership of personal property that has been abandoned by claimant and not moved, transferred or sold, shall transfer to MDOT. (Miss Code 89-7-35)

8.3 Reestablishment Expenses. (ROW FORM 681)

In addition to the payments available under actual move and other non-residential expenses, a small business, farm, or nonprofit organization is entitled to receive a payment, not to exceed the limit \$33,200 allowed by FHWA, for expenses actually incurred in relocating and reestablishing such small business, farm, or nonprofit organization at a replacement site.

A. Eligible expenses

Reestablishment expenses must be reasonable and necessary, as determined by MDOT. They include, but are not limited to, the following:

- Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
- Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- Construction and installation costs for exterior signing to advertise the business.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
 - Advertisement of replacement location.

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- Estimated increased costs of operation during the first two (2) years at the replacement site for such items such as:
 - Lease or rental charges.
 - Personal or real property taxes.
 - Insurance premiums; and
 - Utility charges, excluding impact fees.
- Other items that MDOT considers essential to the reestablishment of the business.

8.4 Ineligible expenses.

The following is a non-exclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

- Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.
- Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- Interest on money borrowed to make the move or purchase the replacement property.
- Payment to a part-time business in the home which does not contribute materially to the household income.
- Construction costs for a new building at the business replacement site, or costs to construct, reconstruct or rehabilitate an existing building. In rare instances, a waiver may be granted however the reestablishment expense is subject to the regulatory limit on such payment.

Reestablishment expenses must be verified by receipted bills and/or other valid documentation. In no event may the sum of all reestablishment expenses exceed the statutory maximum.

8.5 Fixed Payment for Moving Expense – Nonresidential move (ROW FORM 691)

A displaced business, farm operation and nonprofit organization may be eligible to choose a fixed payment *in lieu of the payments for both actual moving and related expenses, as well as actual reasonable reestablishment expenses*. Should a business, farm operation or nonprofit organization elect to receive this payment, it would not be eligible for any other relocation assistance payments including actual moving or related expenses, or reestablishment expenses. Such fixed payment shall be not less than \$1,000 nor more than \$53,200 shall equal the average annual net earnings in accordance with section E below in this section. The payment must be pre-approved by the Property Clearance Manager before submitting a claim.

(A) BUSINESS

A business is eligible for the fixed payment if MDOT determines that:

- The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and the business vacates or relocates from its displacement site.
- The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the agency determines that it will not suffer a substantial loss of its existing patronage.

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- The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the agency, and which are under the same ownership and engaged in the same or similar business activities.
- The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.
- The business is not operated at the displacement site solely for the purpose of renting the site to others; and
- The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement.

Determining the number of businesses:

In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared.

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled.

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(B) Farm Operation

A farm operation may choose a fixed payment, in an amount equal to its average annual net earnings as computed in accordance with section E below in this section. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made if MDOT determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(C) Nonprofit organization

A nonprofit organization may choose a fixed payment if MDOT determines that it cannot be relocated without a substantial loss of existing patronage such as membership or clientele. A nonprofit organization is assumed to meet this test unless MDOT demonstrates otherwise. Any payment more than \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. Monetary receipts and expense amounts must be verified with certified financial statements or financial documents required by public agencies.

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(D) Average annual net earnings of a business or farm operation

The calculation of the fixed payment is based on the average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period when the agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the agency determines is satisfactory. *(See MDOT ROW Form 691 for calculation form)*

8.6 Alternate Non-Residential Move Procedure

- When the cost to relocate material and/or personal property is expected to be \$5000.00 or less, a payment may be based on one cost estimate provided by a qualified mover. Additional cost estimates will not be required.
- When a business can relocate material and/or personal property within a prescribed time and had the ability to do so, the affected business may submit a cost estimate not exceeding \$5000.00 to relocate material and/or personal property. Additional cost estimates will not be required.
- In the event of an uncomplicated, low cost move, where the move cost is estimated to be less than \$500.00 and there are no current comparable cost estimates available in the PTS Relocation Cost Estimate file room, the MDOT Staff Agent and/or Consultant Agent can contact a qualified mover for a verbal and/or written cost estimate. The MDOT Staff Agents and/or Consultant Agents will be responsible for populating the PTS Relocation Cost Estimate file room during the course of the current project(s) in order to ensure current cost estimates are available

In any of the above cases, the cost estimate shall be submitted to the Property Clearance Manager for approval.

- In the event of a large/complicated Non Residential Move, when the qualified mover fee is expected to exceed \$500.00 to prepare a moving cost estimate, a written explanation justifying the time and expense to prepare the estimate will be required. The justification will be submitted to the Property Clearance Manager for review and approval prior to the vendor's inspection of the displacee's property.

8.7 Notice of Denial of Payment Claim

If MDOT disapproves all or part of a payment claimed or refuses to consider the claim on its

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merits because of untimely filling or other grounds, MDOT promptly notifies the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

9.1 Relocation Payments and Closing

9.1 Payment Documentation¹³

Any claim for a relocation payment must be supported by a reasonable amount of documentation to support the expenses incurred. Examples of such documentation include: bills, certified prices, appraisals, or other evidence of such expenses. The displaced person with the assistance of the MDOT staff, completes a Claim for Payment Form [ROW 690 or ROW 704], attaches documentation, and submits it to the Relocation Agent. *The Relocation Agent must provide reasonable assistance necessary to any permanently or temporarily displaced person complete and file any required claim for payment.*

MDOT may make a payment for low cost or uncomplicated moves without additional documentation, if the payment is limited to the amount of the lowest acceptable bid or estimate.¹⁴

9.2 Expeditious Payments¹⁵

Relocation Agents must complete claims in an expeditious manner. The claimant is promptly notified as to any additional documentation that is required to support the claim. Payment for a valid and approved claim is made as soon as feasible following receipt of sufficient documentation to support the claim.

9.3 Advance Payments¹⁶

If a person demonstrates the need for an advance relocation payment to avoid or reduce a hardship, MDOT issues the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

¹³ 49 CFR 24.207(a)

¹⁴ 49 CFR 24.301(d)

¹⁵ 49 CFR 24.207(b)

¹⁶ 49 CFR 24.207(c)

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9.4 Time Limit for Filing¹⁷

All claims for relocation payments must be filed with MDOT within 18 months after either:

- For tenants, the date of displacement or temporary move.
- For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

This 18-month time period may be waived by MDOT for good cause.

9.5 Payment to Multiple Occupants of One Displacement Dwelling¹⁸

When there are multiple occupants of one displacement dwelling and if two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by MDOT, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if MDOT determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

9.6 Deductions from Relocation Payments¹⁹

MDOT deducts the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. MDOT does not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

¹⁷ 49 CFR 24.207(d)

¹⁸ 49 CFR 24.403 (a) (5)

¹⁹ 49 CFR 24.403 (a)(6)

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9.7 Supplemental Computations for Revisions

Due to unforeseen changes, a supplemental computation may be necessary, if so, then the Relocation Agent must review the relocation file to determine the need to re-compute and submit for approval to the relocation reviewer a replacement housing payment when:

- The sale or rent price of the selected comparable changes, or comparable housing is no longer available at or below the original established price and the displacee is required to vacate the needed right-of-way and is actively looking for a replacement; or
- The displacement dwelling's value changes due to re-appraisal; or
- The amount of just compensation payable for a parcel is increased or decreased by a final court judgment, or an administrative settlement.

9.8 Ownership of Replacement Dwelling Before Displacement

Any displacee may occupy a dwelling owned prior to the displacement or build on land owned as the replacement dwelling as long as the dwelling is DSS and all other requirements are met. The current fair market value of the property is used to determine the amount "spent" when qualifying for the replacement housing payments.

10.0 Relocation Appeal

10.1 Time Limit for Initiating Appeal

Displacees may file written appeals to MDOT within 60 days of receiving written notification of MDOT's relocation assistance determination of eligibility, offer amount, or denial of claim.

10.2 Appeal Format

Any aggrieved displacee may file a written appeal with MDOT if the displacee believes that MDOT has failed to properly consider the person's application for relocation assistance. Such assistance may include, but is not limited to, the person's eligibility for, or, the amount of, a litigation or relocation payment. The displacee is provided with Relocation Appeal Form [ROW 692]. MDOT considers a written appeal regardless of the form (letter, Relocation Appeal Form [ROW 692], or other format).²⁰

The displacee can appeal payments or eligibility. The appeal may be given to any Relocation Agent or mailed to the ROW Division Administrator.

10.3 Receipt and Notification of Appeal

The recipient of the appeal (typically the Relocation Agent or the ROW Division Assistant Administrator) informs the District Coordinator and the ROW Officer of the appeal via memorandum.

10.4 Continuation of Acquisition and Relocation

The acquisition and relocation can continue on a property undergoing appeal, at the discretion of the ROW Officer and/or Operations Administrator.

²⁰ 49 CFR 24.10(b).

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10.5 Appeal Review

MDOT promptly reviews appeals in accordance with the requirements of applicable laws and regulations.²¹ In deciding an appeal, MDOT considers all pertinent justification, all materials submitted by the displacee, and all other available information to ensure a fair and full review of the appeal.²² The Assistant Division Administrator²³ reviews the appeal, other information submitted by the displacee, and all other available information.

MDOT permits a displacee to inspect and copy all materials pertinent to his or her relocation assistance appeal, except materials that are classified as confidential by MDOT. MDOT may, however, impose reasonable conditions on the displacee's right to inspect, consistent with applicable laws.²⁴

10.6 Appeal Response

Within 30 days of receipt of the appeal, MDOT Right of Way Division Assistant Division Administrator shall review and respond in writing to the appeal. If the aggrieved party remains unsatisfied, the aggrieved party must, within 30 days of notice, notify MDOT in writing of their refusal to accept the decision of the Right of Way Division Assistant Division Administrator. The appeal shall then be referred to an independent hearing officer selected by the Office of the Attorney General. A recorded hearing will be held at a time not to exceed 60 days from date of receipt by MDOT, and place and in the manner prescribed by the hearing officer. Further, appeals from this hearing shall be in accordance with Section 43-39-25 MCA 1972 annotated.

10.7 Displacee Right to Representation²⁵

A displacee has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the displacee's own expense, unless otherwise ordered by the court.

10.8 Incentive Payments

An Incentive Payments Program may be offered on any project as needed, at the discretion of MDOT. An Incentive plan will be developed by MDOT, and the plan will must be reviewed by FHWA before relocation incentives can be offered. The Property Clearance Manager will inform the Relocation Agents or Relocation Consultants when incentive payments are to be used on a particular project. Incentive payments may be paid, regardless of whether the deed has been signed. The utilization and implementation of relocation incentives will be in accordance with the April 26, 2006 Memorandum on Policy and Guidance for Acquisition and/or Relocation Incentive Program-Voluntary from Susan B. Lauffer, Director, and FHWA Office of Real Estate Services.

10.9 Protective Rents

1. Protective Rents may be offered and are designed to compensate owners for lost rental income when their tenants vacate the premises prior to the conveyance of title in response to our right of way acquisition process. Protective Rents benefit MDOT by mitigating the costs associated with relocation, including moving expenses and supplemental housing payments.

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2. The specific issues that should be addressed in the plan include: 1) criteria for implementing the policy, 2) period owner would be compensated for keeping the units vacant, 3) method for determining amount of compensation, 4) timing of the offer to owner, 5) timing of payment to owner.
3. Protective Rents are authorized upon the approval of the Right of Way Division Director.
4. MDOT will execute a lease agreement with the current property owner(s) with the consideration for the lease agreement being assessed as an “Administrative Adjustment” Consideration for the Lease Agreement will be determined based on current market rental rates provided by the appraiser and review appraiser assigned to the project.
5. The Right of Way Operations Administrator will provide a copy of the completed Lease Agreement form which will be presented to an executed by the current property owner and Right of Way Division Director. The acquisition consultant/agent assigned to the project will provide a copy of the completed Lease Agreement to the current property owner. The completed original Lease Agreement will be scanned to the Parcel Tracking parcel file room and the original will be retained with the recorded deed files in the Right of Way Division Administrator’s Office.

The Property Management Section will provide oversight and supervision of the leased property until it has been acquired.

²¹ 49 CFR 24.10(a).

²² 49 CFR 24.10(f).

²³ 49 CFR 24.10(h).

²⁴ 49 CFR 24.10(e).

²⁵ 49 CFR 24.10(d).

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11.0 Ongoing Relocation Services

11.1 Environmental Concerns

MDOT personnel, including all ROW Agents, immediately report any potentially contaminated sites, historical sites, archaeological sites, or other environmental concerns to the

Environmental Division.

11.2 Relocation Assistance Officers Statement

The Relocation Assistance Officers Statement [ROW 681] is used to document any interactions with displacees and any new information such as claims, or other items that need review. A new form is used for each interaction.

11.3 Notification of Acquisition of New Relocation Cases

Appraisers note all known relocation cases on the appraisal. During the project, additional relocation cases may be identified. Upon identification of an additional relocation case, the Relocation Agent notifies the District Coordinator of the relocation case via memorandum.

11.4 Correspondence by Registered/Certified Mail

If not delivered in person, correspondence may be sent by either certified or registered mail with the mail receipts placed in the Master Relocation File and a copy in the Field File.²⁶

²⁶ 49 CFR 24.5.

**SURVEY, MAPS
AND DEEDS**

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SURVEY, MAPS AND DEEDS

The following procedures document the responsibilities of the Roadway Design Survey, Maps & Deeds Section for preparing acquisition maps and deed instruments to use in the acquisition of property and property rights for public transportation projects. Refer to relevant Right of Way Division Manual sections.

1. General Map and Deed Policies

1.1 Title Abstracts

Title abstracts are required as a means of identifying the current and historic owners of properties, identifying property descriptions, and identifying lien holders and judgments. This information provides the foundation for preparing the ROW Acquisition Map and deed(s) for each parcel to be acquired for transportation projects. These Title Abstracts, as well as the preparation of surveys, maps, and deeds are charged as RWD Incidentals as defined in the Definitions Section of the ROW Operations Manual.

1.2 ROW Acquisition Maps

The RWD Survey, Maps & Deeds Section prepares a ROW Acquisition Map for all property to be acquired. The ROW Acquisition Map, which is the foundation for coordinating parcel acquisition, assigns parcel numbers in order to identify the parcels, provides ROW Agents with an orientation of parcels on the right of way and, for each parcel, it identifies the property owner, acreage to be acquired, any improvements, and remaining acreage for each parcel. The ROW Acquisition Map also identifies any easements of record.

1.3 Deedsⁱ

In accordance with Federal Regulations, the property owner of any property to be acquired is given a description and location identification of the real property to be acquired. This must be a legally sufficient description of the parcel, which means that the property is sufficiently described so that a surveyor could locate the subject property.ⁱⁱ At a minimum, deed instruments must include the followingⁱⁱⁱ:

1. Names of the grantor and grantee, both of which must have legal capacity
2. Name, address, and phone number of the person who prepared the instrument
3. Name, address, phone number, and marital status of the property owner
4. Parcel name, number, and acreage
5. Section, township, and range
6. If subdivision, lot and block number
7. Notation of the consideration
8. Granting or conveyance clause and other relevant clauses
9. Quantity and quality of the property interest
10. Legally sufficient description of the property and indexing instruction. Proper legal tie to one of the state authorized land reference systems (Government Land Office section tie, subdivision, state plane coordinate law)
11. Space for the signatures of the grantor(s) and witness
12. An acknowledgement (notary sheet)

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1.4 Deed Instrument Revisions

In all cases, changes resulting from new ownership or project/plan revisions are updated in the deed and other instruments. For each change, the instrument must be renumbered.^{iv} Changes in a deed may require a new appraisal and a new offer to the property owner.

1.5 Other Instruments

Other instruments are prepared to ensure the Mississippi Transportation Commission has a clear understanding of the property to be acquired.

A partial release of mortgage will be created for each parcel. The partial releases must match W-Deeds, Q-Deeds, and X-Deeds. It is possible to have multiple partial releases

1.6 Standards of Practice Maps or Plats

Standards of practice maps or plats may be prepared as required. The plat shall conform to the Mississippi State Board of Registration for Professional Engineers and Land Surveyors: *Rules and Regulations of Procedure*. Rule No. 21.

1.7 Acquiring Easements

To assist in the acquisition of easements, the RWD Survey, Maps & Deeds Section identifies easements on ROW Acquisition Maps. When acquiring property that is adjacent to an easement owned by the same property owner, MDOT makes its best effort to acquire that easement. It is MDOT's policy to acquire full Title on easements adjacent to property MDOT is acquiring. If the property owner does not want to provide MDOT with full title to the easement, MDOT still has a right to use the easement.

Note that all property acquired by MDOT prior to 1948 was acquired via an easement only.^v

2. Map and Deed Preparation

2.1 Preparation of RWD Survey, Maps & Deeds Project File

At the initiation of a project and preparation of Preliminary Plans by RWD, the District Office creates a project number and the Right of Way Division Operations Administrator requests that the ROW Title Section obtain tax maps, current deeds, lot and block information, and all maps, based on deeds and other court records.

Upon receipt of the above information from the Title Section, the RWD Survey, Maps & Deeds Section establishes a new RWD Survey, Maps & Deeds Project File. Each of the following items are added to the RWD Survey, Maps & Deeds Project File, as they are received:

- Tax maps
- Recorded plats of individual parcels and subdivisions
- Historical research findings
- Aerial photography
- Current deeds
- Lot and block information
- Other documentation and notes

Where possible, all information is obtained in electronic format as well as hard copy.

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2.2 Historical Research

The RWD Survey, Maps & Deeds Section conducts the following research:

- Searches ROW Division records, State Aid Division records, and microfilm archives for existing ROW Acquisition Maps and deeds. Deeds must be recorded deeds.
- Searches Roadway Design Division records and/or District Office records for “as-built” construction plans.
- Searches for deeds on current right of way to determine if MDOT only has an easement (particularly for property acquired prior to 1948^{vi}). If deeds are not available, requests that the Title Section locate the deeds.
- Where applicable, researches Government Land Office Survey Plats and Notes at the Secretary of State, Land Management Bureau for sectional information. Researches township plats, available electronically from the Secretary of State.

The RWD Survey, Maps & Deeds Section retains copies of all research in the RWD Engineering Project File. The research results are combined with Title Section information and forwarded (documents and electronic files) to District Surveyors.

2.3 Materials Provided for Development of ROW Acquisition Map

The materials provided to the RWD Survey, Maps & Deeds Section for use in the development of ROW Acquisition Maps include the following:

- Location Committee Report (from the Location Committee)
- Property Maps (from the District Office)
- Right of Way Plans (from the Roadway Design Division)
- Title Abstracts (from the ROW Title Section)
- Historical research data (from in-house research)

As received, each item is added to the RWD Survey, Maps & Deeds Project File.

2.4 Distribution of Field Review Plans and Final ROW Plans

Upon Roadway Design Division placing the Final ROW maps in ProjectWise, an email notification will be generated informing the requested sections that ROW plans are available. The ROW plans are deposited in the SMD section folder in Project Wise under the project FMS number. Preliminary or Field Review Plans can be accessed from the Project Wise SMD folder for cost estimate preparation in acquisition.

2.5 Preparation of Consolidated Title Work Map

Once the RWD Survey, Maps & Deeds Section receives a property map from the District Office and Final ROW Plans from the Roadway Design Division, the RWD Technician superimposes Final ROW Plans on the property map to create a Consolidated Title Work Map (CTWM). The CTWM can include Final ROW Plans (from the Roadway Design Division), property map (from the District Office), aerial photographs, quadrangle sheets (from United States Geological Survey), and other pertinent and available information.

The RWD Survey, Maps & Deeds Section distributes the CTWM to the Title Section for completion of title research.

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2.6 Development of ROW Acquisition Map

ROW Acquisition Maps are prepared from construction plans, property surveys, and title abstracts. When title abstracts are completed, RWD Technicians develop ROW Acquisition Maps based on current ownership as described in the title abstract. ROW Acquisition Maps show proposed and existing right of way lines, centerlines, property lines, proposed access limits, parcel numbers, acreage of right of way for each parcel acquired, remaining acreage for each property (see description of calculation of remainder below), pertinent topographic and construction features, and improvements. Parcel numbers are assigned as set out by these procedures.

Right of way acreage and other measurements on the deed are carried to the 2nd decimal point (e.g., 0.25 acres). If requested, for urban areas or areas of high value, square footage can be obtained from the closure statement. Any acquisition area less than 0.10 acres is shown in square footage.

In most instances, the remainder is calculated by taking the aggregate of the property owners' deeds from the abstract and subtracting the required surveyed acquisition area. In situations where deeds are vague or contain incorrect descriptions, the manner in which the remainder is calculated is denoted on the ROW Acquisition Map. In all cases, the remainder calculation is based on best available data.

As ROW Acquisition Maps are developed, RWD Technicians refine the CTWM based on additional research of the ROW Title Section and the RWD Survey, Maps & Deeds Section. This research includes a review of ownership records (32-year history) for easements, changes in ownership, judgments or liens, and partial release requirements.

The RWD Technician will enter all parcel information in the PTS (Parcel Tracking System) at the completion of the Acquisition Maps. The Technician will update PTS at the completion of any and all revisions as they are received.

Each map will be submitted to the RWD District Surveyor for final review. The Surveyor must confirm the map(s) before release.

2.7 ROW Acquisition Map, Eminent Domain Survey Review and Verification

The RWD District Surveyor Senior reviews each ROW Acquisition Map and verifies that each item on the following checklist has been included or addressed:

- Existence of east or west transpose (for example, use mapping software and description to determine if it is not closed),
- Secondary roads (names and numbers),
- Liens not necessarily on the entire property,
- Centerlines,
- Property lines,
- Existing right of way lines,
- Section lines,
- Proposed and present access limits,
- Property owner names,
- Connection road names,
- Deed of trust lines,

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- Parcel numbers,
- Acreage of right of way for each parcel acquired,
- Remaining acreage for each property,
- Pertinent topographic and construction features,
- Improvements,
- Subdivision names, lots, and blocks,
- North arrow,
- Scale,
- Note on how acreage is calculated 'as measured' or 'according to deed,' and
- White line composites (to be included in the future).

2.8 Distribution of ROW Acquisition Map

The RWD Technicians will place the completed acquisition map in a staging folder under the Project FMS number in the ROW folder in ProjectWise. The District Surveyor Senior makes a final review of the acquisition maps and moves the maps to the ROW folder. Each section that uses the acquisition map will access them from the ROW folder in ProjectWise.

2.9 Preparation of Federal Land Maps

For Indian Reservation Territories and federal agency-owned lands, the RWD Survey, Maps & Deeds Section prepares a Federal Land Map that shows all parcels owned by a particular agency on a single map. All Federal Land Maps meet minimum standards and are approved by a licensed surveyor.

2.10 Identification of Deed Instruments

Based on a review of title abstracts, the RWD Technician determines the necessary instruments for the property acquisition. These instruments may include the following:

1. W-Deed (Warranty Deed) [ROW 005] – to acquire fee simple title to right of way
2. X-Deed – to acquire fee simple title to an uneconomic remnant or landlocked remainder. Often the Appraisal Section requests X-Deeds from the RWD Survey, Maps & Deeds Section. Upon request of an X-Deed, the RWD Survey, Maps & Deeds Section prepares an X-Deed with a description of the remaining acreage.
3. Q-Deed (Quitclaim Deed) [ROW 640D] – to acquire interests other than fee-simple, e.g. leases, life estate, etc.
4. H-Deed [ROW 083] – to acquire signage, billboards.
5. G-Deed – to acquire access rights.
6. Facilities Deed – to acquire property outside of eminent domain procedures for non-right of way purposes, e.g. MDOT buildings.
7. Permanent Easement [ROW 017] – to acquire the right to the limited use by MDOT in the land of a property owner. An easement is a nonpossessory and intangible interest.

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8. Temporary Easement [ROW 761] – to acquire the right to the limited use by MDOT in the land of a property owner. An easement is a nonpossessory and intangible interest. Temporary easements are used to acquire access to property around the project site for ramps, culverts, and ponds. All other construction-related activities, such as detour roads, sloping and grading, etc. must be acquired under a Warranty Deed (W-Deed) [ROW 005].
9. Partial Release of Mortgage [ROW 695] – to cure the title

2.11 Right of Way Parcel Numbering System

Right-of-Way parcel number is a unique number assigned to each parcel of land to be acquired for a given project, and to sub-interests in the land, such as easements, no-access limits, and other rights of use.

The 1st 7 digits of a file number are always numbers. These numbers are followed by a letter, which indicates the type of legal instrument to be used for the file. In some instances, a 4th set of numbers may follow the letter, to indicate sub-interests. The basic types of instruments are as follows:

Types of Instruments

W..... Warranty Deed for acquisition of right-of-way parcel in fee simple
T..... Temporary Easement
Q..... Quitclaim Deed
X..... Uneconomic Remnant
E..... Permanent Easement (USA, 16th Section Lands, Railroads, etc.)
G..... Conveyance of Access Rights only
R..... Partial Release of Mortgage

Parcel (File) Numbering

Typical Parcel Numbers: 001-00-00-W (Parent Parcel)
001-00-00-Q-001 (Sub-interest 1)
001-00-00-Q-002 (Sub-interest 2)
001-00-00-T-001

The 1st set of (3) digits form a base number for each individual parcel. The first parcel at the beginning of the project should be 001-00-00-“Instrument Type”.

The 2nd set of (2) digits are used to indicate revisions to the deed. This always starts as “-00-”, and advances one number each time the parcel deed is revised. (i.e. -00- advances to -01-).

The 3rd set of (2) digits are used to indicate new parcels partitioned from the original parent tract.

When an existing acquisition parcel is partitioned, the new parcel is indicated by using the 3rd set of digits. (I.e. a parcel partitioned from 001-00-00-W would become: 001-00-01-W.

The original parent parcel 001-00-00-W would be revised to:
001-01-00-W.

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A 4th set of digits, following the letter indicating the parcel type, should be used to indicate sub-Interest in a parcel, such as Q-deeds and T-deeds. For example, Q-deeds and T-deeds related to

001-00-00-W should be numbered as follows:

001-00-00-Q-001

001-00-00-Q-002, and so on.

001-00-0-T-001

001-00-0-T-002, and so on.

Any Q-deeds or T-deeds related to 001-00-01-W would be numbered:

001-00-01-Q-001

001-00-01-Q-002, and so on.

001-00-01-T-001

001-00-01-T-002, and so on.

All numbers should be complete, including place-holding zeros.

Right of Way Division Parcel Tracking System will automatically number the sub-interests with the 4th set of digits, as described above. It will be important to enter the parcels into PTS and compare the parcel numbers with the Acquisition Maps and deeds before distributing, to ensure that the parcel numbers and the corresponding names in PTS match the maps and deeds.

2.11 Preparation of ROW Deed Descriptions

As ROW Acquisition Maps are developed, the RWD Technicians begin to prepare property descriptions. When the ROW Acquisition Map is completed, the RWD Technician continues to prepare and finalize descriptions for each property. The description is used for deeds and other necessary instruments.

The RWD Technician then places the description into the appropriate deed template and verify the following components of the deed are present and accurate:^{vii}

1. Names of the grantor and grantee, both of which must have legal capacity
2. Name, address, and phone number of the person who prepared the instrument
3. Name, address, phone number, and marital status of the property owner
4. Parcel name, number, and acreage
5. Section, township, and range
6. If subdivision, lot and block number
7. Notation of the consideration
8. Granting or conveyance clause and other relevant clauses
9. Quantity and quality of the property interest
10. Legally sufficient description of the property and indexing and structuring. Proper legal tie to one of the state authorized land reference systems (Government Land Office section tie, subdivision, state plane coordinate law)
11. Space for the signatures of the grantor(s) and witness
12. An acknowledgement (notary sheet)

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Based on the deed description, the RWD Technician develops a closure report to verify that the parcel closes within acceptable limits and the acreage. The RWD Technician also checks the calls for topographical errors. The closure report includes bearings and distances, acreage of the acquisition area. If there are inaccuracies, these are corrected, a revised description is prepared, and the ROW Acquisition Map is corrected accordingly.

The final deeds will be given to the RWD District Surveyor for review. Once the Surveyor has determined that the deeds are correct, he/she will create Adobe PDF files of the deed documents. The Surveyor will place a digital "approval" stamp on each deed. The surveyor will coordinate with the project RWD Technician and will place the PDF Deeds in the Project FMS file SMD Staging Folder in ProjectWise. An email notification will be generated from ProjectWise to the requested Section Heads.

A Hard copy of the PDF deeds will be printed and delivered to Right of Way Division file room for older projects that are not in the electronic file room of the Parcel Tracking System.

2.12 Preparation of Project Overlay Maps

Upon request, RWD Technicians prepare Project Overlay Maps by overlaying the property lines and project lines on aerial photos.

3.0 Ongoing Map and Deed Activities

3.1 Standards of Practice Maps or Plats

Standards of practice maps or plats may be prepared as required. Per the Mississippi State Board of Registration for Professional Engineers and Land Surveyors, the plat shall conform to the following requirements and shall include the following information:^{viii}

- a. The plat shall be drawn on any reasonably stable and durable drawing paper, vellum, linen, or film of reproducible quality. No plat or map shall have dimensions of less than 8 1/2 x 11 inches.
- b. The plat shall show the scale, acreage, and classification of the survey (A, B, C or D). These classifications are based upon both the purposes for which the property is being used at the time the survey is performed and any proposed developments which are disclosed by the client. This classification must be based on the criteria in Appendix A, and the survey must meet the minimum specifications set forth in Appendix B. Scale shall be sufficient to show detail for the appropriate classification.
- c. The reference meridian used to conduct the survey shall be stated on the survey plat. A definitive north arrow shall be shown on the plat. All surveys will be referenced to a true meridian by accepted methods with the following exceptions: (a) those used in existing subdivisions; (b) those shown on city or town plats; or, (c) those shown on a previous survey when the current survey is a division of said previous survey and enough monuments are available to establish the original orientation. If Global Positioning System equipment is used to obtain the reference meridian, it shall be stated on the plat whether the bearings are grid or geodetic. If any published horizontal control stations are occupied during the survey, they shall be listed on the plat and the horizontal datum used shall be listed on the plat. If a meridian established by the compass is used, the compass must be properly declinated and adjusted to a True Meridian. Regardless of the meridian used, the survey must be referenced to a well-defined line, group of monuments, reference points, etc. of a normally assumed permanent nature so the orientation of the survey can be re-established. This reference line and its relation to the meridian used must be clearly shown on the survey plat.

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- d. All monuments, natural and artificial (man-made), found or set shall be shown and described on the survey plat. The monuments shall be noted as found or set. All monuments set shall be ferrous metal, or contain ferrous metal, not less than 1/2 inch in diameter, and not less than eighteen inches in length. All monuments set shall display the license number of the Professional Surveyor, the COA number of the firm, or the name of the responsible government agency. All corners shall be monumented, either by found monument clearly described on the survey plat, or by a monument set as described above, except however, a corner which falls in a creek, stream or ditch, in a gravel or asphalt road or upon solid rock, concrete or other like materials shall be marked in a permanent manner and clearly identified on the plat. Monuments shall be set at all corners of all surveys as required by these Standards. Witness Corners shall be set whenever a corner monument cannot be set or is likely to be disturbed. Such witness corners shall be set as close as practical to the true corner and shall meet the same physical standards that would be required for the true corner where it set. If only one (1) witness corner is set, it must be set on the actual boundary line or prolongation thereof. Otherwise, at least two (2) witness corners shall be set and so noted on the plat of the survey. Concrete right-of-way markers may be acceptable as monuments on all roadways, streets, and utility rights-of-way, and may be placed only at points where right-of-way width or direction change.
- e. The plat of a metes and boundary survey must clearly describe and show the commencing point and show the point of beginning for the survey. Commencing Point is a well-defined monument point referenced to the U.S. Public Land (GLO) Survey system or other recorded reference system compatible with Mississippi Statutes for recording land ownership that is used in a metes and bounds description. Point of Beginning is a well-defined monument point referenced to the U.S. Public Land Survey system or other system compatible with Mississippi Statutes for recording land ownership that is used as the beginning and ending point in a metes and bounds land description.
- f. All discrepancies between the survey and the record description, and the source of all information used in making the survey, shall be indicated. When an inconsistency is found, including a gap or overlap, excess or deficiency, erroneously located boundary lines or monuments, or when any doubt as to the location on the ground of the true boundary or property rights exists, the nature of the inconsistency shall be clearly shown on the drawing.
- g. A description and location of any physical evidence of occupation found along a boundary line, including fences, walls, buildings or monuments.
- h. The horizontal length (distance) and direction (bearing or azimuth) of each line as specified in the legal description and as determined in the actual survey process.
- i. Four (4) elements of all circular curves shall be shown (radius, arc length, chord bearing and chord length).
- j. When a property description is required by the client, the description prepared by the Professional Surveyor should list all pertinent information that is shown on the survey plat to include, but not limited to: commencing point, point of beginning, course bearing and distances, description of all corner monuments, description and offset of witness corners and basis of bearings.
- k. The lot and block or tract numbers or other designations, including those of adjoining lots and tracts if the survey is within a recorded subdivision.
- l. Visible encroachments onto or from adjoining property or abutting streets with the extent of such encroachment. No sub-surface encroachments are required to be located unless their existence and location is furnished to the surveyor by client.

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- m. All public and private rights-of-way or easements which are known or observed adjoining or crossing the land surveyed.
- n. Location of all permanent improvements pertinent to the survey, with reference to the boundaries.
- o. Anytime State Plane Coordinates are used on a survey in the State of Mississippi, these surveys must be performed in compliance with state law (Chapter No.462, Senate Bill Number 2131, approved March 29, 1991) and compliance with item (c) of this rule. State Plane Coordinates shall be clearly referenced to the appropriate horizontal datum(s) on the plat. When State Plane Coordinates are used the following information shall be shown on the plat (1) the State Plane Coordinates System Zone, (2) the horizontal and vertical datum(s) used, (3) the method used to derive information such as Global Positioning System or conventional survey, (4) all horizontal and/or vertical control points used (5) a combined or correctional factor, (6) the convergence angle. The coordinates of a minimum of two (2) reference points relevant to the survey shall be shown on the plat or map.
- p. Regardless of the type of survey, a plat or survey shall bear the name, address, date of field survey, and signature and seal (either embossed or stamped) of the licensee in responsible charge. This signature and seal is certification that the survey meets the Standards of Practice for Surveyors in Mississippi as adopted by the Mississippi State Board of Registration for Professional Engineers and Land Surveyors. Other regulations including the Manual of Instructions for the Survey of U.S. Public Lands and all subdivision Laws and regulations of the State of Mississippi Statutes shall be followed.

3.2 Notification to Roadway Design Division of Potential Causes for Redesign

The RWD Survey, Maps & Deeds Section may identify any of the following factors that may be cause for potential redesign:

- Acquisition of small parcels that could be avoided,
- Historical or environmental issues that could be avoided,
- Adjusting no access limits to avoid a relocation or large uneconomic remnant, and/or
- Examination of the use of frontage roads to avoid large right of way acquisition costs.

Upon identification of any of these factors, the RWD District Surveyor Senior discusses the factor with the Roadway Design Division Engineer. The RWD District Surveyor Senior also sends an e-mail memorandum to the Roadway Design Division Engineer confirming the discussion of such issues. If redesign is warranted, the Roadway Design Division generates revised Final ROW Plans.

3.3 Plan Changes

The Roadway Design Division notifies the RWD Survey, Maps & Deeds Section as soon as any Final ROW Plan changes are identified. Upon receipt of this notification from the Roadway Design Division, the RWD Survey, Maps & Deeds Section provides notification to the District Coordinator and all ROW Section Supervisors and Officers via memorandum detailing the change and its effect on right of way acquisition, and enter each parcel to be revised in to PTS (Parcel Tracking System) on the Project Revision Page. The acquisition process on affected parcels may be put on hold until revised title abstracts, maps, deeds, and other instruments are prepared.

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3.4 Map Updates

During the life of a project, the RWD Survey, Maps & Deeds Section revises ROW Acquisition Maps, Federal Land Maps, Condemnation Maps, and other maps to correct errors, accommodate project/plan changes, and identify new land transfers. The RWD Survey, Maps & Deeds Section provides ROW Agents with revised maps throughout the life of the project.

3.5 Deed Instrument Revisions

In all cases, changes resulting from new ownership or project/plan revisions are updated in the deed and other instruments. For each change, the instrument must be renumbered.^{ix} Deed revisions are numbered sequentially from 0 (for the original deed) through 9 and then A through Z for any revised deeds. This accommodates up to 36 deed revisions (0, 1, 2, 3, 4, 5, 6, 7, 8, 9, A, B, C, D, E, etc.). Changes in a deed may require a new appraisal and a new offer to the property owner.

3.6 Project Archives

The RWD Survey, Maps & Deeds Section maintains an archive of all ROW Acquisition Maps and right of way plans, including revised plans, received from the Roadway Design Division.

3.7 Eminent Domain Survey and Exhibits

All exhibits and documents prepared for use in an Eminent Domain court case shall be prepared in a manner consistent with requirements of the legal staff. All exhibits and documents shall be based on a survey meeting the standards set forth by the Mississippi State Board of Registration of Engineers and Land Surveyors.

RWD Survey Maps and Deeds Section receive the ED surveys prepared by the District surveyors or the contract survey consultant for a particular project. The ED survey is reviewed by RWD District Surveyor based on the review checklist found in **item 2.7**. A review of the ED survey plat shall conform to the survey Standards of practice for land surveying per the Mississippi State Board of Registration for Professional Engineers and Land Surveyors rules. For ED surveys that are prepared by the District Surveyors a legal description is prepared by RWD Survey Maps and Deeds Section and sent to the District surveyors for their review. After approval of the ED survey plat and legal descriptions a package of the following items are prepared.

- 3.7.1 3 copies of a Signed and sealed Plat of survey.
- 3.7.2 1 copy of the Exhibit legal description.
- 3.7.3 7 copies of the acquisition map, with the highlighted condemned area.

The ED survey package is forwarded to the legal staff for further processing.

4.0 Relinquishments and Turn Backs

A relinquishment involves transfer of right of way to local authority without an existing contract and agreement with the local Authority. A turn back transfer of right of way to a local authority according to an existing contract and agreement with the local authority. Highway facilities in which federal funds participated in either the right of way acquisition or construction may be relinquished or turned back to another governmental agency for continued highway use under the provisions of 23 CFR 620.203(b). As a result, property originally purchased as right of way by MDOT may need to be transferred (or relinquished) to a local government entity. Relinquishments and turn backs of right of way of way purchased under an interstate project must be approved in writing by FHWA.

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- 4.1 Request Received
The District receives all relinquishment/turn back requests. Upon the District Engineer Approval of the relinquishment/turn back request, the District forwards the relinquishment/turn back request with a map showing the area to be relinquished/turn back to the Roadway Design Engineer. The Roadway Design Engineer will review the request and provides the request to the RWD Survey Maps and Deeds Section.
- 4.2 Relinquishment Deed
The RWD Survey Maps and Deeds Section prepare a Quitclaim (Q-Deed) Deed and obtain FHWA approval for interstate right of way relinquishments.
- 4.3 Mississippi Transportation Commission Approval
The Mississippi Transportation Commission must approve all relinquishments, but not turn backs (having a contract and agreement). The RWD Survey Maps and Deeds Section arrange to have the proposed relinquishment put on the Mississippi Transportation Commission's agenda.
- 4.4 Executive Director Approval
Following Mississippi Transportation Commission approval, the Executive Director signs the deed.
- 4.5 Execution of Deed and Agreement
Following approval and signature of the deed by the Executive Director, Right of Way Division's Title section files the deed in the Chancery Clerk's office in the county where the project is located. A copy of the recorded deed is provided to the RWD survey maps and deeds Section. Survey maps and deeds section then provides a copy of the recorded deed, annotated right of way map and the Relinquishment Agreement to the District.

5.0 Sale Back of Excess Right of Way and Uneconomic Remnant Property

Excess right of way, property that was originally acquired as right of way, and uneconomic remnant property, property acquired when remaining property of a land owner's is determined by MDOT (Mississippi Department of Transportation) to have little or no value or utility to the owner. The District Engineer determines if excess right of way is necessary for right of way purposes. The Real Property specialist of Right of Way Division makes a request for technical support from RWD SMD section in preparation the legal description. The deeds are checked to ensure they have a no access clause, if it applies, and that they follow the original acquired area. Upon request from the Real Property specialist of Right of Way Division, RWD Survey Maps and Deeds will prepare a legal description from recorded instruments on the area to be sold.

6. ProjectWise System (PW)

PW is a MDOT application file management system that provides file storage and sharing of RWD design files, PDF preliminary ROW drawings, PDF final ROW drawings and SMD PDF acquisition maps. RWD uploads the design files and other related files to the PW system. The files at this stage can be accessed by staff and other divisions that have permission. The RWD SMD technician downloads the files associated with their project for preparation of the acquisition maps. When the acquisition maps are completed, PDF copies of the acquisition maps are placed in PW system under the FMS project number and folders labeled ROW/Final PDF (ACQ MAP).

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ⁱ **49 CFR 24.102(e)(2)**

ⁱⁱ MDOT Policy, 2002. Based on the definition of 'Description' in the *Handbook of Real Estate Terms*, Dennis S. Tosh, Jr., Prentice Hall, Englewood Cliffs, NJ, 1992. Civil engineers without professional surveyors' license are prohibited in the state of Miss. from ROW, easements, or property activities (Cite: Miss Code 73-13 Definitions of Engineer.).

ⁱⁱⁱ MDOT Policy, 2002. Adapted from the definition of 'Deed' in the *Handbook of Real Estate Terms*, Dennis S. Tosh, Jr., Prentice Hall, Englewood Cliffs, NJ, 1992.

^{iv} MDOT Policy, 2002.

^v *Whitworth et al. v. Mississippi State Highway Commission*. January 12, 1948. 33 So.2d 612.

^{vi} *Whitworth et al. v. Mississippi State Highway Commission*. January 12, 1948. 33 So.2d 612.

^{vii} *Handbook of Real Estate Terms*. Dennis S. Tosh, Jr., Prentice Hall, Englewood Cliffs, NJ, 1992.

^{viii} Mississippi State Board of Registration for Professional Engineers and Land Surveyors. *Rules and Regulations of Procedure*. Rule No. 21. <http://www.pepls.state.ms.us/web10.htm>. December 1, 2001.

^{ix} MDOT Policy, 2002.

TITLE ROM

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The following procedures document the responsibilities of the Title Section of the MDOT Right of Way Division for overseeing the delivery of land title abstracts and land title certificates and other activities including the property closing of the acquisition of a parcel of property acquired for public transportation projects.

Please review all pertinent chapters of the Right of Way Operations Manual, Roadway Design – Survey, Maps and Deeds Manual.

Oversight of Title functions is conducted by the Right of Way Division's Title Officer. The MDOT uses consultants to perform title work and property closings. The following are the oversight responsibilities of the Title Officer:

- Assign title work, updates to title and property closing work.
- Monitor title work for compliance with MDOT policies, procedures, and contract specifications for quality control.
- Resolve title issues.
- Ensure contract attorneys are current with their professional training and qualified to accomplish the assigned work.
- Ensure the proper distribution of work product to other MDOT Right of Way Sections and Divisions or MDOT consultants.
- Interpretation of official instructions and/or rules, contracts or agreements.
- Return significantly incomplete product to the consultant and consider invoking contract provision for dismissal of consultant.

1.0 Title Abstracting

When the Title Section receives preliminary ROW plans or design information for a public transportation project from the MDOT Roadway Design Division and is instructed to begin title work by the Right of Way Operations Administrator, the ROW Title Officer determines the number of abstracts needed for the project based on tax parcels located within the footprint of the preliminary ROW plans of the project.

The ROW Title Officer will contact the MDOT Attorney General's (AG) office who has a Master Contract list of approved title attorneys to request a 32-year title report. The MDOT AG office will draft a Work Assignment to an attorney from those on the approved list which is submitted to The Mississippi Transportation Commission (MTC) for approval to provide title services for the project(s) listed on the Commission Agenda. The MTC must approve the assignment before the Work Assignment for the title work can begin.

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If there is not an approved attorney available in the area for a project, the Attorney General's Office oversees the approval process for a new attorney to provide title related services for the Right of Way Division.

Upon approval by the MTC of the Work Assignment, the Title Officer will send the preliminary ROW plans or design information to the contracted attorney. The Title Officer will monitor the attorney's progress in accordance with the project schedule and receives the attorney's work product after completion. The Title Officer will review the title work to ensure the work is compliant with MDOT title examination requirements (Section 1.1 below) and Work Assignment and/or contract specifications.

In accordance with the work assignment and/or contract, the title attorney firm submits its invoice(s) for completed title work to the MDOT AG Office, which forwards the attorney's invoices to the ROW Title Officer. The ROW Title Officer will review and approve the invoice.

For any invoice not approved, the Title Officer will return the invoice to the MDOT AG Office with comments about the denial of the invoice. For the approved invoices, the Title Officer's Administrative Assistant prepares a MDOT Invoice Form ROW-320 in the Parcel Tracking System for payment. The approved invoices and MDOT Form 320 are returned to the ROW Title Officer and MDOT AG Office for signatures and submittal for payment.

1.1 Title Examination Requirements

The ROW Title Officer contacts the contracted attorney to go to the courthouse in the county in which the project is located and conduct a careful and thorough examination, investigation, and analysis of all pertinent county public records for each parcel of real property affected by the project.

The title examination must cover a period of at least 32 years, based on the 10-year statute of limitations for adverse possession, plus the period dictated by the Rule Against Perpetuities, which states that title to real property must vest, if at all, within 21 years and some life in being (meaning the nine-month gestation period), the combined timeframe being rounded to 32 years.

Based on the results of the title examination, the attorney prepares a title abstract for each real property parcel in the project, which identifies the following information:

- Owner of the parcel.
- Status of real property taxes assessed against the parcel.
- Identification of any mortgages, liens, judgments, and other encumbrances affecting the parcel.
- A derangement of title for the period covered.
- Copies of all instruments in the chain of title; and
- A tax map depicting the parcel.

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- Additionally, the attorney provides a Certificate of Title submitted on the attorneys' letterhead/format which testifies to the accuracy of the title information provided for each real estate parcel abstracted. The Certificate of Title must include a Summary Page which contains a summary of items which MDOT must address to obtain clear title to the real property.

When needed, the abstracts and title certificates are electronically transferred to the Roadway Design Survey, Maps and Deeds Section for preparation of the right of way project deeds and maps.

2.0 Title Updates

When a change of ownership or other title changes are discovered during a right of way project, typically by an appraiser or acquisition agent, notification is given to the appropriate District Coordinator, who submits a title update request to the ROW Title Officer. The ROW Title Officer forwards the request to the project contract attorney. After completion, the attorney sends the title update to the ROW Title Officer, who forwards a copy to the Roadway Design Survey, Maps and Deeds Section and downloads a copy into the Parcel Tracking System (PTS) for access by other project personnel.

Title examination abstracts and/or title certificates may also be updated when they are more than two years old if covering rural property or more than one year old if urban property.

3.0 Property Closing

3.1 Preparation of property closing file.

Once an agreement has been reached on property acquisition for a given ROW parcel, the MDOT ROW Division receives the property closing file (which consists of the pay package and executed deed(s)) from the acquisition consultant or ROW Agent. The file is submitted to the ROW Operations Administrator for processing

The ROW Operations Administrator reviews and approves the property closing files and submits the file to the Admin Support Assistant who generates invoice(s) using the Parcel Tracking System. The invoices are reviewed, approved, and signed by the Operations Administrator and Division Director.

The approved invoices are scanned to the Parcel Tracking Invoice System by the Admin Support Assistant and forwarded to the MDOT Financial Management Division (FMD) for issuance of a check that is sent to the ROW Title Section.

When the ROW Title Section receives the printed check from FMD, the check and a closing statement that is generated by PTS are added to the property closing file, and is forwarded to the closing attorney to complete the closing process

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The ROW Administrative Assistant scans the entire closing package(s) to the designated Parcel File Room(s) in PTS. Closing attorneys access all other information (such as contact reports, maps, etc.) in the PTS Parcel File Rooms for the subject parcels.

The closing package that is sent to the closing attorney includes executed instruments for recording, check(s), MDOT closing statements, copy of MDOT invoice for funds, W-9 form(s) and a copy of the ROW map.

The closing attorney performs a thorough review of the file for verification of title and determination that all interests have been acquired. If everything is in order, the attorney examines the courthouse records to verify that no changes in ownership or liens have occurred. If no changes are found, the attorney records the deed and any partial releases in the land records of the county where the property is located. If changes have occurred, the attorney updates the title abstract and proceeds as appropriate based upon the changes found.

3.2 Completion of property closing process

Once the deed and any partial releases are recorded, the attorney completes the closing process by disbursing funds to the property owner and any lien holders and having the closing statement signed by the appropriate parties. The title attorney forwards the recorded deed, signed closing statement, and a final title certificate to the ROW Title Officer, who enters the recording and payment information in the Parcel Tracking System (PTS). The ROW Title Officer also determines if the property owner is eligible for reimbursement of MDOT's pro-rata share of property taxes on the parcel acquired (See Section 3.4).

After property closings, the Title Section emails copies of recorded deeds to the District Coordinator of the appropriate district, and it provides the ROW Property Disposal Coordinator (PDC) with a list of uneconomic remnants purchased. The PDC adds those parcels to the Uneconomic Remnant (X-Deed) Purchased Inventory.

3.3 Other Closings Procedures

When there is no contract attorney for a project, a parcel closing will be done by the Title Officer and ROW staff. These types of closings are usually for Temporary Easements or low value acquisitions. The same processes are used as in 3.1 and 3.2 above except that ROW staff will process the payment, update the title abstract and record the conveyance in the county courthouse.

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3.4 Real Property Tax Reimbursement

Assessment of ad valorem taxes begins on the first of January, but taxes are not due and payable until the following year. As a result, the property owner could be billed for ad valorem taxes assessed against property they sold to the MTC. As a means of reimbursing the property owner for the tax expense they may incur, a Determination of Ad Valorem Tax Reimbursement form is completed by the Title Section. This form is provided by the Title Officer. The process for tax reimbursement is as follows:

- The form is only completed if the acquisition offer (total land and improvement value of part acquired) is greater than \$10,000.
- If the computation results in a reimbursement of \$50.00 or more, the Title Section forwards the file and tax reimbursement form to the ROW Accounting Section for invoicing and payment.
- If the computation results in a reimbursement of less than \$50.00 then no reimbursement is given.
- In the event of a Quick Take or Eminent Domain proceeding tax reimbursement, the MDOT Attorney General Office – ROW Legal Section, forwards the files to the ROW Title Section for determination of property tax reimbursement eligibility. If the file meets the criteria for reimbursement, the Title Officer will process the reimbursement following the procedure described in this section.
- For those parcel(s) which qualify for the reimbursement, the MDOT Determination of Ad Valorem Tax Reimbursement form is entered into PTS folder of the parcel being reimbursed.

4.0 Disposal of Surplus Real Property- Identification of Parties with Statutory Interests – Title Report

The Property Disposal Coordinator (PDC) submits a request to ROW - Title Section for the preparation of a title report abstracts. The title report abstract forms are provided by the Title Officer to the attorney or staff as needed. If no staff is available to perform the title search, a work assignment request by the Title Officer is sent to the MDOT Attorney General Office to provide an attorney who will provide an updated title report and title certificate.

The title report is used to verify MTC ownership of the surplus real property.

The attorney or staff will run the land title forward from the date acquired by MDOT to a date specified by the Title Officer.

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TITLE ROM

The title report will contain the following information:

- The title report will identify parties with statutory interest in the property such as the original owner (total take), current owner (partial take) and adjoining property owners. .
- The report will have copies of the deeds to MDOT
- Tax information for the MDOT property and adjoining landowners' will be provided in the title report.

The title report is returned to the PDC after it is reviewed and approved by the ROW Title Officer. The invoice for the attorney work assignment is reviewed and approved by the Title Officer before it is processed for payment by the MDOT Attorney General Office.

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