Do you currently own the right-of-way to be used for the project?

No

Step 1. Identify Right-of-Way Needs

Yes

Step 2b. Appraisal and Appraisal Review

Step 2b. Appraisal Waiver

Step 3. Acquisition


Step 2a. Donation or Under $10,000?

No

Yes
§ 24.101 Applicability of acquisition requirements.

(a) Direct Federal program or project.

(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (See appendix A, §24.101(a).)

(2) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an amicable agreement, and the owner is so informed in writing, the Agency will inform the owner in writing of what floor price it believes to be the market value of the property, and the owner is so informed in writing.

The Agency will inform the owner in writing of what floor price it believes to be the market value of the property, and the owner is so informed in writing.

(b) Programs and projects receiving Federal financial assistance.

The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (See §24.2(a)(9).)

(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area, all owners are to be treated similarly. (See appendix A, §24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what floor price it believes to be the market value of the property. (See appendix A, §24.101(b)(1)(iv) and (2)(ii).)

(2) Acquisitions for programs undertaken by an Agency of a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service (see §24.101(b)(1)) are not covered by the applicable provisions of this subpart and are not subject to the requirements of this part.

(3) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an amicable agreement for a program of a project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service, the Agency will inform the owner in writing of what floor price it believes to be the market value of the property, and the owner is so informed in writing.

(4) Direct Federal Program or Project: (1) The requirements of this subpart apply to any acquisition of property for a direct Federal program or project except acquisition for a program of a project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service (see §24.101(b)(1)).

(5) Programs and projects receiving Federal financial assistance: (See §24.101(b)(2)).
Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and inform the owner in writing of what it believes to be the market value of the property.

See appendix A, §24.101(b)(1)(iv) and (2)(ii).

The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.

Acquisition of real property by a cooperative for a program or project that receives Federal financial assistance from the cooperative.

The acquisition of real property by a cooperative from a Federal Agency, State, or State Agency, without regard to the market value of the property.

Appendix A, §24.101(q)(1)(i) and (ii).
An appraisal is not required if:

(i) The owner is donating the property and releases the Agency from its obligation to appraisal the property; or

(ii) The Agency 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.

(A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.

(B) The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the $10,000 threshold, up to a maximum of $25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, §24.104.)

(d) Establishment and offer of just compensation.

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 of the fair market value of the property.

The amount shall be at least the approved appraisal of the fair market value of the property. An Agency official must establish the amount believed to be just compensation. Upon receiving the statement of the amount believed to be just compensation, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (See appendix A, §24.104.)

(e) Summary statement.

Along with the initial written purchase offer, the owner shall be given:

(1) A written statement of the basis for the offer of just compensation, which shall include:

(A) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as a part of the offer of the property.

(B) An identification of the real property and the interest in the real property.

The offer shall be signed by the Agency official who is responsible for appraising the property, and shall be served on the owner.

(2) An appraisal is not required if:
Basic negotiation procedures.

The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation. (See appendix A, §24.102(f).)

Updating offer of just compensation.

If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

Coercive action.

The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or 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. The Agency shall not advance the time of condemnation or defer negotiations or condemnation or 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.

Administrative settlement.

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an administrative settlement have failed and an authoritative 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. (See appendix A, §24.102(i).)

Payment before taking possession.

Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-way.

Uneconomic remnant.

If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See appendix A, §24.2(a)(27).)

Inverse condemnation.

If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the taking of the property.

§24.102(1)

For condemnation purposes, before making payment available to an owner, the Agency shall prepare an appraisal of the property to be acquired. The Agency shall make a good faith effort to secure an appraisal, including the cost of an appraisal of the property to be acquired. The Agency shall make all reasonable efforts to acquire any interests in real property by

§24.102(2)

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an administrative settlement have failed and an authoritative 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. (See appendix A, §24.102(i).)
§ 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 prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP), published by The Appraisal Foundation, at the following URL: http://www.appraisalfoundation.org/USPAP..

The Appraisal Foundation, a nonprofit educational organization, develops and publishes uniform professional standards governing the practice of appraisal. 1 The Uniform Standards of Professional Appraisal Practice (USPAP) are intended to be consistent with Federal land acquisition appraisal requirements, including, to the extent applicable, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). 2

1 Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: http://www.appraisalfoundation.org/USPAP2004/loc.htm.

2 The “Uniform Appraisal Standards for Federal Land Acquisition” is published by the Federal Land Acquisition, a nonprofit educational organization, for Federal land acquisition appraisal. Copies may be ordered from The Appraisal Foundation.

(b) Conflict of interest.

(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser, review appraiser, or waiver valuation preparer, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, review or waiver valuation.

(4) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, review or waiver valuation shall not base an amount of the valuation estimate on the amount of the offer to acquire the property, except that, for a program or project receiving Federal financial assistance, the Federal Land Acquisition, a nonprofit educational organization, develops and publishes uniform professional standards governing the practice of appraisal. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(7) No person shall attempt to unduly influence the amount of the valuation estimate.

The Agency.

Valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency. The Agency shall not exceed the fair market rent for such occupancy. (See paragraph (m) for fair rental.) If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.
(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 complexity of the appraisal problem depends on the scope of work and development of an appraisal under these requirements depends on the specific circumstances. If the owner of a real property improvement is responsible for the preparation of an appraisal, the scope of work and development of the appraisal problem is determined by the owner.

(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 as a minimum, comply with the definition of appraisal in §24.2(a)(3) and the following requirements: (See appendix A, §§24.103 and 24.103(a).)

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining real property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(ii) 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, a reconciliation of approaches to value supporting the appraiser's opinion of value.

(iii) A description of comparable sales, including a description of all relevant physical, financial, and economic factors such as parties to the transaction, source and method of financing, and real estate-related transactions in the area.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

(v) The effective date of valuation, the date of appraisal, signature, and certification of the appraiser.

(b) Influence of the project on just compensation.

The appraiser shall disregard any decrease in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project. (See appendix A, §§24.103(b).)

(c) Owner retention of improvements.

If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount to be offered for the property and the amount to be offered for the property improvement.
Amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §24.2(a)(24)) of the retained improvement.

(d) Qualifications of appraisers and review appraisers.

(1) The Agency shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Agency shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. (See appendix A, §24.103(d)(1).)

(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.).

§24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser (see §24.104(a)) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review and analysis depends on the complexity of the problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal reviewed as recommended (or approved) or rejected. To the maximum extent practicable, the review appraiser shall identify the basis for the rejection or approval, or not accepted, if authorized by the Agency. If rejected, the review appraiser shall determine whether the rejection was for failure to meet the requirements of the Commission established in the monograph, or for other applicable requirements. After acceptance of an appraisal, the review appraiser shall make a determination to be just compensation, or to be accepted. The review appraiser shall prepare a written report that identifies the appraisal reviewed, and, if the review appraiser determines that the report is not accepted, provides a written explanation of why the report was not accepted.

(b) If the review appraiser is unable to recommend (or approve) an appraisal, an appraisal shall be rejected. In such case, the review appraiser shall make a determination of the amount believed to be just compensation, and, if authorized by the Agency, develop and report the amount received by the requestor. The amount determined to be just compensation shall be set forth in the review report.

§24.104 Review of appraisals.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]
§ 24.105 Acquisition of tenant-owned improvements.

(a) Acquisition. When acquiring any interests in real property, the AGENCY shall remove such improvements from the property. Any building, structure, or other property located upon the real property on which the improvements are located, which would be considered to be real property if owned by the owner of the real property on which the improvements are located, shall be considered to be real property for purposes of this subpart.

(b) Improvisations considered to be real property. Any building, structure, or other property located upon the real property on which the improvements are located, which would be considered to be real property if owned by the owner of the real property on which the improvements are located, shall be considered to be real property for purposes of this subpart.

(c) Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the AGENCY all of the tenant-owner's right, title, and interest in the improvement.

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement.

(3) The amount paid does not result in the duplication of any compensation otherwise authorized by law.

(4) The payment is made to the tenant-owner of the real property.

(5) Wherever a greater (salvage value is defined at §24.4(a)(23)).

(6) Improvisations on a tenant-owned improvement are real property.

(d) Special conditions for tenant-owned improvements. No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the AGENCY all of the tenant-owner's right, title, and interest in the improvement.

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement.

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(4) The payment is made to the tenant-owner of the real property.

(5) Wherever a greater (salvage value is defined at §24.4(a)(23)).

(6) Improvisations on a tenant-owned improvement are real property.

(e) Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.

(1) The tenant-owner shall be reimbursed for the fair market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at §24.2(a)(23).

(2) The AGENCY shall remove such improvements from the property.

(3) The tenant-owner shall be reimbursed for the fair market value of the whole property, or its salvage value, whichever is greater.

(4) Improvisations on a tenant-owned improvement are real property.

(f) Acquisition of improvements. When acquiring any interests in real property, the AGENCY shall remove the improvements or replace them with property of equal value.

(g) Review. Appraisals are authorized to do so. Any amount believed to be just compensation for the
§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) 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 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.

(b) 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.

§ 24.107 Certain litigation expenses.

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

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof or any interest therein, or any compensation paid therefor, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.107(c)(2).

§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) 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 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.

(b) 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.

§ 24.107 Certain litigation expenses.

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

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in §24.102(c)(2).
ARTICLE 5 - GENERALLY

This act shall be cited as the "Wyoming Eminent Domain Act".

(a) As used in this act:
(i) "Condemn" means to take property under the power of eminent domain.
(ii) "Condemnor" means a person empowered to condemn.
(iii) "Condemneree" means a person who has or claims an interest in property that is the subject of a prospective or pending condemnation action.
(iv) "Public entity" means the state of Wyoming and its agencies, political subdivisions, counties, school districts, political subdivisions and special districts.
(v) "This act" means W.S. 1-26-501 through 1-26-817.
(vi) "Litigation expenses" means the reasonable costs, disbursements and expenses, including attorney, appraisal and engineering fees, associated with a condemnation proceeding.

(b) Except as otherwise specifically provided by statute, the power of eminent domain may be exercised only as provided by this act and the Wyoming Rules of Civil Procedure to the extent the Rules of Civil Procedure do not conflict with this act.
1-26-504. Requirements to exercise eminent domain.

(a) Except as otherwise provided by law, the power of eminent domain may be exercised to acquire property for a proposed use only if all of the following are established:

(i) The public interest and necessity require the project or the use of eminent domain is authorized by the Wyoming Constitution;

(ii) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and

(iii) The property sought to be acquired is necessary for the project.

(b) Findings of the public service commission, the interstate commerce commission and other federal and state agencies with appropriate jurisdiction are prima facie valid relative to determinations under subsection (a) of this section if the findings were made in accordance with law, were recorded in the records of the commission or other agency that made the findings, and are summarized in a decision of the commission or other agency.

(c) When a public entity or agency determines that there is a reasonable probability of locating a public project on specifically identifiable private property and that the project is expected to be completed within two (2) years of that determination, the public entity or agency shall provide written notice of the intention to consider the location and construction of the project to the owner as shown on the records of the county assessor. The notice shall include a description of the public interest and necessity of the proposed project. The public entity or agency shall provide an opportunity for the private property owner to consult and confer with representatives of the public entity or agency regarding the project.

(d) A condemnor shall prove each requirement of subsection (a) of this section by a preponderance of the evidence. Failure of the condemnor to prove any requirement of subsection (a) of this section shall result in dismissal of the condemnation action without prejudice.

1-26-505. Condemnation of property devoted to a public use.

(a) If a proposed use will not unreasonably interfere with or impair the continuance of the existing use of the property, and the burden of proving that a proposed use will not unreasonably interfere with or impair the continuance of the property is on the public entity or agency, the public entity or agency may use the power of eminent domain to acquire property devoted to a public use.

(d) When a public entity or agency determines that there is a reasonable probability of locating a public project on specifically identifiable private property, the public entity or agency shall provide notice to the property owner or owner of record. The notice shall include a description of the public interest and necessity of the proposed project. The public entity or agency shall provide an opportunity for the property owner to consult and confer with representatives of the public entity or agency regarding the project.

(e) Appeals from the findings of the public service commission, the interstate commerce commission, the state attorney general, and the court of appeals are subject to the procedures and limitations provided in 1-26-814.
1-26-506. Entry prior to condemnation action.

(a) A condemnor and its agents and employees may enter upon real property and make surveys, examinations, photographs, tests, soundings, borings and samplings, or engage in other activities for the purpose of appraising the property or determining whether it is suitable and within the power of the condemnor to condemn if the entry is:

(i) Preceded by prior notice to the condemnee specifying the particular activity to be undertaken and the proposed use and potential recipient of the data thereby obtained and the condemnee has been given fifteen (15) days to respond in writing;

(ii) Undertaken during reasonable business hours, normally during daylight;

(iii) Undertaken during reasonable hours, normally during daylight;

(iv) Accomplished peaceably and without interfering substantially with the lawful business operations of the owner or the property being condemned;

(b) The entry and activities authorized by this section do not constitute a trespass.

(c) The condemnor is liable under W.S. 1-26-508 for damages resulting from activities authorized by this section.

(d) Subject to applicable confidentiality restrictions under federal or state law, the results of surveys information acquired from the property sought related to threatened and endangered species, cultural resources and archeological resources shall be made available to the condemnee upon request.

1-26-507. Entry prior to condemnation action; court orders.

(a) If reasonable efforts to accomplish a lawful entry or to perform authorized activities upon real property under W.S. 1-26-506 have been made and denied or deemed the condemnor may apply to the district court for an order permitting entry.

(b) Unless after notice and hearing good cause to the contrary is shown, the court shall make its order permitting and describing the purpose of the entry and setting forth the nature and scope of activities the court determines are reasonably necessary and authorized to be made upon the property. In addition to requiring a deposit under subsection (c) of this section, the order shall include a determination by the court of the amount, if any, that will fairly compensate the owner or any other person in lawful possession or physical occupancy of the property for physical injury to the property and for substantial interference with its possession or use. The order shall include a determination by the court of whether it is suitable and within the power of the condemnor to condemn the property for the particular activity to be undertaken.

(c) An order permitting entry under subsection (a) of this section shall include:

(i) A determination by the court of whether it is suitable and within the power of the condemnor to condemn the property for the particular activity to be undertaken.

(ii) A determination by the court of whether it is suitable and within the power of the condemnor to condemn the property for the particular activity to be undertaken.

(iii) A determination by the court of whether it is suitable and within the power of the condemnor to condemn the property for the particular activity to be undertaken.

(iv) A determination by the court of whether it is suitable and within the power of the condemnor to condemn the property for the particular activity to be undertaken.
In achieving to acquire the property by purchase under W.S. 1-26-510, the court for good cause may extend the period of retention.

(d) After notice and hearing the court may modify an order under subsection (c) of this section. If a deposit is required or the amount required to be deposited is increased by an order of modification, the court shall specify the time within which the required amount must be deposited and may direct that any further entry or specified activities or studies under the order shall be modified or suspended. If the amount of the deposit is insufficient to pay the full amount or the amount required to be deposited, the court for good cause may modify the order to reduce the amount to be deposited and may order an additional deposit. If the amount of the deposit is insufficient to pay the full amount or the amount required to be deposited, the court for good cause may modify the order to reduce the amount to be deposited and may order an additional deposit.

1-26-509. Negotiations: scope of efforts to purchase.

(a) A condemnor shall make reasonable and diligent efforts to acquire property by good faith negotiation.

(b) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(c) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(i) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(ii) The court shall determine the amount of the deposit and award it to the person entitled to the property which caused significant damage to the property or reasonably necessary to the continued use of the property lawfully by the owner or other person entitled to the property.

(iii) The court shall order the condemnor to cease and desist from any further entry or activities on the property, and to pay the condemnee the amount of damages sustained by the condemnee.

(iv) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(v) The court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(vi) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(vii) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(viii) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(ix) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(x) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(xi) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(xii) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(xiii) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(xiv) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(xv) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(xvi) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(xvii) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(xviii) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(xix) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(xx) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(\textit{\textbf{Note:}}) In an action or other proceeding for recovery of damages under this section, the court may order the condemnor to cease and desist from any further entry or activities on the property, and to pay the condemnee the amount of damages sustained by the condemnee.

1-26-508. Entry prior to condemnation action; damages.

(a) A condemnor shall make reasonable and diligent efforts to acquire property by good faith negotiation.

(b) In an action or other proceeding for recovery of damages under this section, the court may award the condemnee his litigation expenses incurred in any proceeding under W.S. 1-26-507.

(c) If funds are on deposit under W.S. 1-26-507, the power of the court shall be as follows:

(d) After notice and hearing the court may modify an order under subsection (c) of this section. If a deposit is required or the amount required to be deposited is increased by an order of modification, the court shall specify the time within which the required amount must be deposited and may order that any further entry or specified activities or studies under the order shall be modified or suspended. If the amount of the deposit is insufficient to pay the full amount or the amount required to be deposited, the court for good cause may modify the order to reduce the amount to be deposited and may order an additional deposit. If the amount of the deposit is insufficient to pay the full amount or the amount required to be deposited, the court for good cause may modify the order to reduce the amount to be deposited and may order an additional deposit.
Any element of valuation or damages recognized by law as relevant to the amount of just compensation payable for the property;
The extent, term or nature of the property interest or other right to be acquired;
The quantity, location or boundary of the property;
The acquisition, removal, relocation or disposition of improvements upon the property and of personal property not sought to be taken;
The date of proposed entry and physical dispossession;
An estimate of the fair market value of the property sought and the general basis for such estimate;
Written notice of the proposed project, the land proposed to be condemned, plan of work, operations and facilities in a manner sufficient to enable the condemnee to evaluate the effect of the proposed project, plan of work, operations and facilities on the condemnee's use of the land;
The name, address, telephone number, if available, facsimile number and electronic mail address of the condemnor and his designee, if any;
A description of the general location and extent of the property sought, with sufficient detail for reasonable identification;
A description of the general location and extent of the property sought, with sufficient detail for reasonable identification;
Any other terms or conditions deemed appropriate by either of the parties.
An offer to acquire the property sought, allowing the condemnee up to sixty-five (65) days from the date the initial written offer was sent via certified mail to respond or make a counter-offer in writing; and

A written notice that the condemnee is under no obligation to accept the initial written offer but if the condemnee fails to respond to the initial written offer the right to object to the good faith of the condemnor may be waived under W.S. 1-26-510(a), that the condemnor and the condemnee are obligated to negotiate in good faith for the purchase of the property sought, that formal legal proceedings may be initiated if negotiations fail and that the condemnee has a right to seek advice from an attorney, real estate appraiser, or any other person of his choice during the negotiation and any subsequent legal proceedings.

An offer to accept the property sought, allowing the condemnee up to sixty-five (65) days from the date the initial written offer was sent via certified mail to respond or make a counter-offer in writing; and

subsection (c) of this section, the condemnor shall reimburse the condemnee for all reasonable litigation expenses incurred after the condemnation is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (d) of this section shall be given to the condemnee of record as shown on the records in the county assessor’s office at the time, no less than ninety (90) days prior to commencement of a condemnation action.

subsection (e) of this section shall be given to the condemnee of record as shown on the records in the county assessor’s office at the time, no less than ninety (90) days prior to commencement of a condemnation action.

subsection (f) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (g) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (h) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (i) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (j) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (k) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (l) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (m) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (n) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.

subsection (o) of this section is more than one hundred fifteen percent (115%) of the final offer required by the condemnor.
1-26-510. Prematurity efforts to purchase.

The public agency which paid each award and the total amount of each award made, the name of each counsel of record representing each party to whom an award was made, and the name of each counsel of record representing each party to whom an award was made, and the public agency which paid each award and the total amount of each award made, the name of each counsel of record representing each party to whom an award was made.

1-26-512. Contents of authorization.

Upon service of the notice of intention to file suit, the condemning party shall serve the owner of the property with: (a) a statement of the public use for which the property is to be taken; (b) a statement of the total amount of the award made; (c) the name and address of each counsel of record representing each party; (d) the public agency which paid each award; and (e) the total amount of each award made.

1-26-511. Purchase efforts waived or excused.

(a) A public entity may not commence a condemnation action until it has first adopted a written resolution in substantial conformity with this section, authorizing commencement and prosecution of the action. The resolution must be adopted at any time before the commencement of the action. The resolution must include:

1. A general statement of the proposed public use for which the property is to be taken and a reference to the specific statute that authorizes the taking of the property by the condemning public agency.

2. A statement of the total amount of the award made, the name of each counsel of record representing each party to whom an award was made, and the public agency which paid each award and the total amount of each award made, the name of each counsel of record representing each party to whom an award was made.

3. A statement that the entity has complied with W.S. 1-26-509, 1-26-509.5, and 1-26-509.6, and that the entity has met the requirements of W.S. 1-26-509(c) through (e).
A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification; and

A declaration that a taking of the described property is necessary and appropriate for the proposed public use.

1-26-513. Deposit at commencement of action.

(a) At the time of commencing an eminent domain proceeding the condemnor shall deposit in court an amount equal to the condemnor’s last offer of settlement prior to the action. Upon motion of the condemnee and following a hearing if the amount originally deposited is clearly inadequate, the court shall order the condemnor to make an additional deposit. The clerk of court shall invest the deposit in any legal interest bearing investment and interest earnings shall accrue to the account of the condemnor. Interest in the deposit may be withdrawn by the court if the condemnee can prove that the deposit is clearly inadequate or insufficient to cover loss to the property if the deposit does not exceed the full judgment in the action. Interest may not be withdrawn by the court if the condemnation is for a public entity or if the condemner is financially or legally unable to post the deposit but the public entity may not obtain possession of the property prior to judgment unless the appropriate deposit is made.

(b) The court in determining the amount authorized by the court may waive the requirement of a deposit for a public entity if the public entity is financially or legally unable to post the deposit but the public entity may not obtain possession of the property prior to judgment unless the appropriate deposit is made.

(c) The condemnee may withdraw any portion of the deposit prior to final judgment which the court determines is not subject to claims of mortgagees and other claimants. The amount withdrawn constitutes a lien against the property of the condemnee and the condemnee is liable to the condemnor for any amount withdrawn which exceeds the final judgment in the action. If the condemnee withdraws any portion of the deposit prior to judgment, he waives all defenses to the action except the right to contest the amount to be awarded and the condemnor is entitled to immediate possession of the property subject to the court’s determination of a reasonable period during which the condemnee can remove improvements and take other actions necessary to the possession of the property which shall not include any claim, interest in, or other right in or to the land except as authorized by the court.

(d) The court in determining the amount authorized by the court may waive the requirement of a deposit if the condemnation is for a public entity or if the condemnor is financially or legally unable to post the deposit but the public entity may not obtain possession of the property prior to judgment unless the appropriate deposit is made.

1-26-514. Interest taken; due compensation.

(a) In the case of public entities the court may grant an easement or fee simple title to the public entity if necessary for the purpose for which the land was condemned. In cases not involving public entities, following determination of due compensation the court shall enter an order granting an easement to the condemnor which shall not include any claim, interest in, or other right in or to the land except as authorized by the court.

(b) The court in determining due compensation may authorize a lump-sum payment or an annual installment or amortization payment to continue throughout the term of the easement.

1-26-515. Abandonment, nonuse or new use.

Upon abandonment, nonuse for a period of ten (10) years, or transfer or attempted transfer to a new use where the transferee could not have condemned for the new use or where the new use is not within the general location and extent of the property to be taken, a declaration that a taking of the described property is necessary and appropriate for the proposed public use.

A declaration that a taking of the described property is necessary and appropriate for the proposed public use.

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A declaration that a taking of the described property is necessary and appropriate for the proposed public use.
When a person possessing the power of condemnation takes possession of or damages land in which he has no interest, or substantially diminishes the use or value of land, due to activities on adjoining land without the authorization of the owner of the land, or before filing an action of condemnation, the owner of the land may file an action in district court seeking damages for the taking or damage. If damages are awarded to the owner, the court may grant the owner litigation expenses.
§635.309 Authorization.

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 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 49 CFR 24.204. This paragraph (b) of this section is excerpted from the Start Printed Page 710309 of this chapter and continues with the following text:

(c) Except as otherwise provided for design-build projects in §710.309 of this chapter and in the following paragraphs of this section, if the ROW has been acquired but the right of access has not yet been acquired, the stage of the project in which work on the ROW has been completed or is underway must be coordinated with the physical construction schedule. When it is determined that the completeness of such work in advance of the highway construction is required for the roadway, special physical construction schedules must be prepared to ensure that these requirements have been met:

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

(ii) Authorization to advertise the physical construction for bids or to proceed with force-account construction has been granted.
The State may request approval for the advertisement for bids based on a conditional certification. The FHWA will approve the request unless it finds that it will not be in the public interest to proceed with the bidding before acquisition activities are complete.

The State may request approval for physical construction under a contract or through force account work based on a conditional certification. The FHWA will approve the request only if FHWA finds there are exceptional circumstances that make it in the public interest to proceed with construction before acquisition activities are complete.

Whenever a conditional certification is used, the State shall ensure that occupants of residences, businesses, farms, or non-profit organizations who have not yet moved from the ROW are protected against unnecessary inconvenience and disproportionate injury or any action coercive in nature.

When the State requests authorization under a conditional certification to advertise for bids or to proceed with physical construction where acquisition or right of occupancy and use of a few parcels has not been obtained, full explanation and reasons therefor, including identification of each such parcel, will be set forth in the State's request along with a realistic date when physical occupancy and use is anticipated as well as substantiation that such date is realistic. Appropriate notification must be provided in the request for bids, identifying all locations where right of occupancy and use has not been obtained. Prior to the State issuing a notice to proceed with construction to the contractor, the State shall provide an updated notification to FHWA identifying all locations where right of occupancy and use has not been obtained. Where right of occupancy and use has not been obtained, a realistic date when physical occupancy and use will be obtained must be provided. The FHWA will determine the extent of title 23 participation in costs related to construction delay claims resulting from unavailable parcels.

Participation of title 23 funds in construction delay claims resulting from unavailable parcels shall be determined in accordance with §635.124. The FHWA will determine the extent of title 23 participation in costs related to construction delay claims resulting from unavailable parcels where FHWA determines the State did not follow approved processes and procedures.

The State transportation department (SDOT), in accordance with 23 CFR 771.111(c), has submitted public hearing transcripts, certifications and reports pursuant to 23 U.S.C. 128.

When the State requests approval for the advertisement for bids or the physical construction, the State shall follow approved processes and procedures.

The State may request approval for the advertisement for bids or the physical construction, the State shall follow approved processes and procedures.
A statement has been received that the steps relative to relocation advisory assistance and payments as required by 49 CFR part 24 have been taken, or that they are not required.

The FHWA has determined that appropriate measures have been included in the PS&E in keeping with approved guidelines, for minimizing possible soil erosion and water pollution as a result of highway construction operations.

The FHWA has determined that requirements of 23 CFR part 771 have been fulfilled and appropriate measures have been included in the PS&E to ensure that conditions and commitments made in the development of the project to mitigate environmental harm will be met.

Where utility facilities are to use and occupy the right-of-way, the FHWA has determined that the provisions of §645.119(b) of this chapter have been fulfilled.

The FHWA has verified the fact that adequate replacement housing is in place and has been made available to all affected persons.

Where applicable, area wide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231 through 4233.

The FHWA has verified the fact that adequate replacement housing is in place and has been made available to all affected persons.

Where utility facilities are to use and occupy the right-of-way, the FHWA has determined that the provisions of §645.119(b) of this chapter have been fulfilled.

Where applicable, area wide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231 through 4233.

The FHWA has determined that the PS&E provide for the erection of only those information signs and traffic control devices that conform to the standards developed by the Secretary of Transportation or mandated by Federal law and do not include promotional or other informational signs and traffic control devices that conform to the standards developed by the FHWA.

Where applicable, provisions are included in the PS&E that require the erection of funding source signs in accordance with section 154 of the Surface Transportation and Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Pub. L. 91-646, 84 Stat. 1894; primarily codified in 42 U.S.C. 4601 et seq.; Uniform Act).

Where applicable, area wide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231 through 4233.

The FHWA has determined that the following conditions have been met:

(i) The FHWA's project authorization for final design and physical construction will not be issued until the following conditions have been met:

(ii) The FHWA has determined that the PS&E provide for the erection of only those information signs and traffic control devices that conform to the standards developed by the Secretary of Transportation or mandated by Federal law and do not include promotional or other informational signs and traffic control devices that conform to the standards developed by the FHWA.

(iii) The NEPA review process has been concluded (see §636.109 of this chapter).

Transparency of project requirements as required by 49 CFR parts 21 and 93.

All projects in any qualified nonairattainment and maintenance areas must meet all requirements (23 CFR part 450).

All projects must conform with the statewide and metropolitan transportation planning process.

The FHWA has determined that appropriate measures have been included in the PS&E to ensure that conditions and commitments made in the development of the project to mitigate environmental harm will be met.

Where utility facilities are to use and occupy the right-of-way, the FHWA has determined that the provisions of §645.119(b) of this chapter have been fulfilled.

The FHWA has verified the fact that adequate replacement housing is in place and has been made available to all affected persons.

Where applicable, area wide agency review has been accomplished as required by 42 U.S.C. 3334 and 4231 through 4233.

The FHWA has determined that the PS&E provide for the erection of only those information signs and traffic control devices that conform to the standards developed by the Secretary of Transportation or mandated by Federal law and do not include promotional or other informational signs and traffic control devices that conform to the standards developed by the FHWA.
The Request for Proposals document has been approved.

A statement is received from the SDOT that either all ROW, utility, and railroad work has been completed or that all necessary arrangements will be made for the completion of ROW, utility, and railroad work.

If the SDOT elects to include ROW, utility, and/or railroad services as part of the design-builder's scope of work, then the Request for Proposals document must include:

(A) A statement concerning scope and current status of the required services or, in the case of right-of-way work, a certification in accordance with 23 CFR part 450, §710.501 of this chapter, of the design-build project concept and scope agreement.

(B) A statement which requires compliance with the Uniform Act, 23 CFR part 450, §710.309(d)(1) of this chapter, and the FHWA-approved ROW manual.

A statement which requires compliance with the Uniform Act, 23 CFR part 450, §710.309(d)(1) of this chapter, and the FHWA-approved ROW manual.

The Request for Proposals document has been approved.
Once completed, email a copy of this signed document to your WYDOT LC Contract.

Date
Printed Name & Title
Signature

The undersigned certifies the above information is accurate as of the date below.

For proper coordination with the construction:
All necessary arrangements have been made for railroad work to be completed as required
or
There is no work involving railroad right-of-way for the completion of this project.

All necessary arrangements have been made for completion of this project.

completing or are incorporated in the contract plans as bidable work.
Utility Requisitions/Attachments within the project limits of construction have been
or
Utility Requisitions/Attachments are not required for completion of this project.

Federal Highway Administration:

Email Address: testemail@testemail.com

Title: TEST
State: WY
Zip Code: TEST

Email: 307-777-3938

Contract Number: TEST CONTRACT

City:
Address:

Project Sponsor:

The acquisition of Right-of-Way was not required. All work proposed is within Right-of-
Way obtained or acquired prior to programming this project.

All necessary rights-of-way have been acquired including legal and physical possession in
accordance with all applicable laws and regulations noted below. No easions or
development agreements or any other agreements with any public or private entity were
required.

The Wyoming Department of Transportation and the

Local Public Agency Right-of-Way & Utility Certificate

Federal
Project Amount: $380,720.00

WYDOT Program: CD1610

Funding Type:

$20.205 CMAC

Work Requirement: 20%