Background Information

“…nor shall private property be taken for public use, without just compensation.”

U.S. Constitution, Amendment 5
Requirements (49 CFR 24.101)

- *(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 the project costs

Basic Acquisition Policies (49 CFR 24.102)

- *(a)* Expeditious acquisition The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation

- *(b)* Notice to Owner As soon as feasible, the Agency shall notify the owner in writing of the Agency’s interest in acquiring the real property and the basic protections provided to the owner by law and this part.

  - Wyoming State Statute 1-26-504(c) further defines this as within two (2) years of the expected completion of the project
Right of Way Process

Step 1. Identify Right-of-Way Needs
Identify Right-of-Way Needs

- Right-of-Way needed for the project must be clearly identified
- Can be done with:
  - Survey
  - Plat
  - Legal description
- This is something that will likely be completed by an engineer to ensure accuracy

Step 2. Value the Property

Appraisal or Appraisal Waiver
Valuation (49 CFR 24.102)

- (c) Appraisal, waiver thereof and invitation to owner
  - (1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in §24.102(c)(2), and the owner, of the owner’s designated representative, shall be given an opportunity to accompany the appraiser during the appraiser’s inspection of the property.

Appraisal Requirements (49 CFR 24.102)

- (2) An appraisal is not required if:
  - (i) The owner is donating the property and releases the Agency from its obligation to appraise 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.
Appraisal Requirements

- AN APPRAISAL IS NOT REQUIRED IF:
  - THE OWNER IS DONATING THE PROPERTY
  - OR
  - THE ANTICIPATED VALUE IS LESS THAN $10,000

Appraisal Waiver (49 CFR.102(c)2)

- (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
Appraisal (49 CFR 24.102)

1. (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 fair market value of the property, taking into account the values of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation.

Review of Appraisal (49 CFR 24.104)

1. (c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s).
Step 3. Acquisition

Acquisition (WS 1-26-509(c)(iii))

- (E) 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

- (F) A written notice that the condemnee is under no obligation to accept the 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 negotiations and any subsequent legal proceedings.
Acquisition (49 CFR 24.102)

- (e) Summary statement. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:
  - (1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.
  - (2) A description and location identification of the real property and the interest in the real property to be acquired.
  - (3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation.
Right-of-Way and Utility Certificate

- Required by 23 CFR 635.309 (b)(c)(g) & (h)
- Included as a tab in your Project Forms document from LGC contact
- If Right-of-Way was already owned, can skip straight to this step
- If **ANY** right-of-way was purchased with the intent of using it for the project – even if it was several years ago – **ALL** steps must be followed
- **MUST** be submitted to LGC prior to advertisement of the project for construction
Questions?