

# Right-of-Way Program

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# Background Information

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

U.S. Constitution, Amendment 5

## Requirements (49 CFR 24.101)

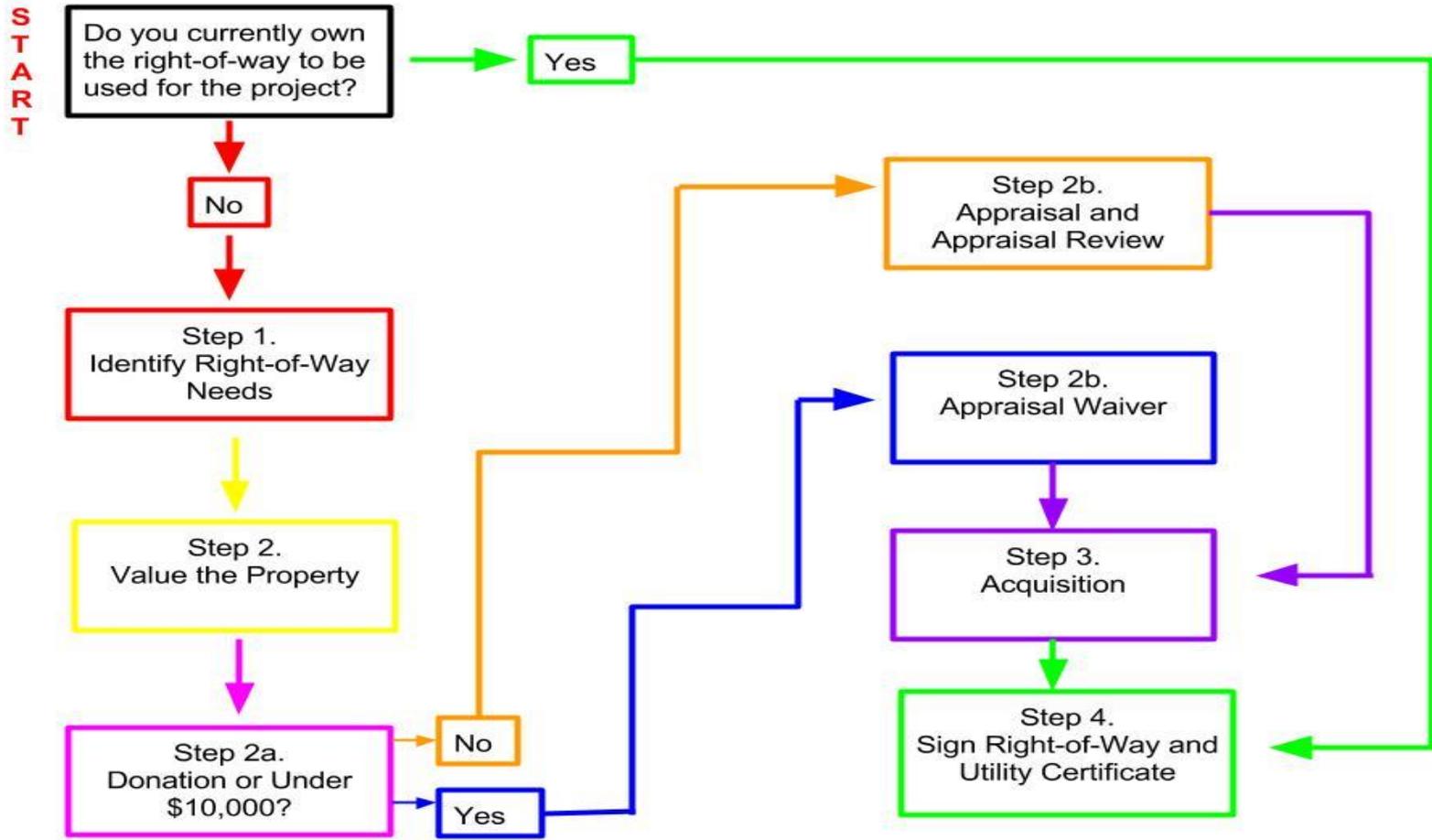
- *(b) Programs and projects receiving Federal financial assistance*
- The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in **ANY** part of the project costs

# 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

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# 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

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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 (49CFR24.102)

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

- *(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)

- *(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

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# 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.*

# Step 4. Sign Right-of-Way and Utility Certificate

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# 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

## Local Public Agency Right-of-Way & Utility Certificate

Project Number:	CD16101	WYDOT Program:	CMAQ	
Project Amount:	\$380,712.00	Match Requirement:	20%	CFDA #: 20.205
Funding Type:	Federal			

**Local Public Agencies (LPAs) are required to submit proof of the following to WYDOT. The LPA must provide the following information (highlighted in blue):**

Project Sponsor:	TEST				
Address:	TEST ADDRESS				
City:	TEST	State:	WY	Zip Code:	TEST
Contact Name:	TEST CONTACT			Title:	TITLE
Telephone Number:	307-777-3938	Email Address:	<a href="mailto:testemail@testemail.com">testemail@testemail.com</a>		

**TEST** hereby certifies to the Wyoming Department of Transportation and the Federal Highway Administration that:

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.

or

All necessary rights-of-way have been acquired including legal and physical possession in accordance with all applicable laws and regulations noted below. No persons or businesses have been or will be displaced by this project. All requirements of 23 CFR 635.309(b)(c)(g)&(h) - Authorization, 49, CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs, and the Wyoming Relocation Assistance Act of 1972, Sections 16-7-101 through 16-7-131 were followed.

Utility relocations/adjustments are not required for completion of this project.

or

Utility relocations/adjustments within the project limits of construction have been completed, or are incorporated in the contract plans as biddable work.

There is no work involving railroad right-of-way for the completion of this project.

or

All necessary arrangements have been made for railroad work to be completed as required for proper coordination with the construction.

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

Signature	Printed Name & Title	Date
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Once completed, email a copy of this signed document to your WYDOT LGC Contact.

Questions?

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