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## LAND ACQUISITION BY LOCAL PUBLIC AGENCIES

Whenever a local public agency (LPA) becomes responsible for acquiring right of way for a locally sponsored project involving Federal funds in any phase, or for certain State projects, the IDOT Division of Highways *Land Acquisition Policies and Procedures Manual* must be followed to ensure full compliance with Title II and Title III of the “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970”. Land acquisition includes any and all temporary and permanent easements, as well as fee takes, required to construct the proposed improvement.

Title II of the Uniform Act establishes a uniform policy for the fair and equitable treatment of persons displaced as a result of federally assisted programs in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole. Title III of the Act establishes policies in regard to expeditious acquisition by negotiation, independent appraisal of real property and written determination of just compensation in order to encourage the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners, and to promote public confidence in federal and state land acquisition practices.

### **General Information**

1. The land acquisition process normally begins with the LPA representative or the engineering consultant contacting the IDOT Bureau of Land Acquisition Local Program Right of Way Coordinator (LPA Coordinator) to schedule the Project Pre-Acquisition Meeting. This meeting, which marks the beginning of required land acquisition coordination, should be set up **no later than** when the Project Development Report is in IDOT’s Central Office (Springfield) awaiting final review and approval, or prior to the commencement of plat of highway and legal description preparation, whichever occurs first.
2. All land acquisition documentation forms, conveyance related documents and correspondence must include the Route Name, Bureau of Land Acquisition Job Number (R-9X-XXX-XX), the local Section Number and the Parcel Number.
3. All land acquisition submittals to IDOT (including plats and legal descriptions) should be directed to the LPA Coordinator.
4. If the LPA believes that a property owner may be willing to donate a needed parcel (take or easement), a Donation Letter (form letter available) should be sent as soon as the right of way requirements are known (preferably during Phase 1 engineering). (NOTE: The donation letter is a letter of intent and is not a form of conveyance.)
5. The LPA should submit the names of the appraiser, review appraiser and negotiator to be utilized on the project for approval by IDOT. Qualified consultants specializing in real estate appraisal and negotiation shall be engaged. (NOTE: It is recommended that fee appraisers and fee negotiators to be used be on IDOT’s list of approved appraisers and negotiators.)

## **Plats and Legals**

1. It is strongly recommended that Phase 1 engineering contracts be set up or amended to allow work to be performed on the plat of highway and legal descriptions prior to commencement of the Phase 2 engineering. This can cut three or four months from the project schedule.
2. Two copies of the plat of highway, legal descriptions, and title commitments should be submitted for review and approval. A "Plat of Highways Checklist" is available which summarizes key requirements for preparing such plats.
3. The plat of highway is an assembly drawing showing multi-parcel plat features of all right of way takings on a project. Surveyors should be familiar with Chapter One, "ROW Engineering" of the *Land Acquisition Policies and Procedures Manual*.
4. Legal descriptions should be typed about four inches down from the top of page on a standard 8½" X 11" sheet of paper. The LPA's name, route name, job number, local section number, and parcel number should be typed in the upper right corner.
5. If federal funds will be utilized for land acquisition, IDOT must withhold approval to commence with appraisal and negotiation activities until federal authorization is obtained.
6. When pre-final plats and legals are substantially acceptable, approval to begin appraisal activity will be given by IDOT.

## **Appraisals**

1. Appraisal activity must not begin prior to receiving approval of the plats and legals.
2. No appraisals or review appraisals are required for parcels being donated when the property owner waives its right to an appraisal.
3. Minimum Payment Procedure (MPP) estimates are recommended when consideration to be paid for a parcel does not exceed \$10,000, permanent damages will not exceed \$3,000, and no condemnation is anticipated. No appraisal or review appraisal is conducted for MPP estimates. Minimum payment for a parcel is \$300.
4. Appraisals must be on standard Form BRW 229, *The Valuation Report* or Form BRW 742, *The Appraisal Report*, as appropriate. Four originals of the appraisal documents for each parcel should be forwarded to the review appraiser for review and certification.
5. The *Appraisal Review Certification*, standard Form BRW 316, must be utilized for the review appraisal. No review appraisal is necessary for appraisals less than \$10,000.
6. The review appraisals must be reviewed and approved by LPA representative by signing a copy of the review appraisal. The LPA representative sends an original appraisal and review appraisal certification for each parcel to IDOT for review.
7. After review by IDOT, a letter of approval will be sent to the negotiator permitting the commencement of negotiation activities.
8. One original appraisal and review appraisal for each parcel must be delivered by LPA to IDOT to be kept in IDOT's project file. For parcels being acquired in the State's name, two originals of the appraisal and the review appraisal must be delivered to IDOT by LPA to be kept in IDOT's project file.

## **Negotiation**

1. Approval to begin negotiation cannot be given prior to the Design Approval date unless IDOT authorizes Advanced Acquisition in hardship or protective buying situations.
2. Negotiation must not commence prior to approval of the appraisals by IDOT. For donated parcels, negotiation must not begin prior to approval of the plat of highways and legal descriptions.
3. Separate files must be kept for each parcel to be acquired. A partial copy of the files will be submitted to IDOT for its permanent records upon completion of acquisition.
4. The negotiator is responsible for presenting the offer to purchase (full appraisal amount or review appraisal amount, if applicable), preparing the necessary conveyance related documents, obtaining owner's signatures, clearing title exceptions (Schedule B) and obtaining any other necessary documents to comply with the requirements of IDOT. (NOTE: At the time of presenting the offer to purchase, if the appraisal review is over six months old, an updated review appraisal should be obtained.)
5. The negotiator prepares the certification documentation, which includes the attorney certification letter, Parcel and Project Compliance Checklists, Negotiator's Reports and other forms to ensure that IDOT is able to certify the acquisition process.
6. Settlements for amounts more than that offered by the negotiator must be documents using the Administrative Settlement documentation, which must be prepared and approved on LPA letterhead indicating the basis of approval of the offer.
7. For parcels where consideration being paid does not exceed \$10,000, title reports must be no more than 120 days old when the LPA attorney approves title (or when documents are submitted to IDOT for approval involving acquisitions in the name of the State). Where consideration being paid does exceed \$10,000, title reports must be no more than 90 days old when title is approved.
8. In the documentation to be submitted to IDOT and the LPA, the negotiator must indicate how title has been cleared.
9. If title is being acquired in the name of the LPA, the LPA attorney must approve title for each parcel prior to the property owner being paid the agreed upon consideration. A letter from the LPA attorney certifying compliance with Title II and Title III of the Uniform Act and approving the title (Attorney Certification Letter) must be prepared on the letterhead of the LPA attorney and submitted to IDOT with the negotiators document package. A separate certification letter should be prepared for each parcel.
10. If title is being acquired in the name of the State of Illinois (on State routes only), written title approval must be obtained by IDOT for parcels where consideration to be paid does not exceed \$10,000. Title approval must be procured by IDOT from the Attorney General's office for parcels where consideration to be paid exceeds \$10,000. Either title approval must occur before payment is made to the property owner by the LPA.
11. The negotiator is responsible for keeping records of all communications and work done to acquire each parcel of right of way (the Negotiator's Report).
12. The LPA Representative must sign the Project Compliance Checklist prepared by the Negotiator.
13. It is the responsibility of the LPA Representative - not the negotiator - to deliver the appropriate payment to the property owner and to file the proper property tax waiver documents.

14. IDOT's copy of the parcel files and Compliance Review Checklists must be presented to IDOT's LPA Coordinator at least five (5) working days prior to certification. IDOT will certify the project if it is determined that:
  - a. the files are in order (including recorded conveyance documents);
  - b. that the LPA attorney has certified each parcel acquisition; and
  - c. that the property owners have been paid.
15. When all land acquisition activities are completed, the original parcel files should be turned over to the LPA for storage.
16. The negotiator's records may be subject to audit at some future date by a federal and/or state investigator to determine whether or not proper procedures were followed.
17. Copies of title insurance policies should be forwarded to the District prior to compliance certification.
18. The Letting Schedule requires all certifications to occur approximately six weeks prior to the project being let (no exceptions).

If relocation and/or condemnation are required, additional steps and coordination will be incurred by the negotiator, the LPA and the Department which is beyond the scope of this summary.

**LPA Acquisition Schedule**

Plats of Highway, legal descriptions & title reports Should be done during Phase 1 Engineering	3 Months
Appraisal and Appraisal Review May be done during Phase 1 Engineering if no federal funds being used for acquisition	3 Months
Negotiations Can <u>not</u> begin prior to Design Approval date.	3 to 6 Months
Condemnation Varies by county. LPA's do not have quick take authority.	12 to 18 Months

As a reminder, all local agency land acquisition submittals, inquiries and comments should be directed to Sheila Derka, Local Program Right-of-Way Coordinator at (847) 705-4291.