

**U.S. DOT Federal Railroad Administration
Office of Passenger and Freight Programs**

Monitoring Procedure 23 - Real Estate Acquisition and Management Plan Review

1.0 PURPOSE

This Monitoring Procedure describes the Monitoring and Technical Assistance Contractor's (MTAC) review and analysis of the Grantee's plan for and implementation of real estate acquisition and management.

2.0 KEY PRINCIPLES

On major capital projects, real property acquisition and relocation components represent substantial project risk. Therefore, the Grantee should apply its energies early in Planning and PE to the real estate work. In addition, the Grantee's project team must include individuals with real estate expertise and an understanding of the risks that real estate can pose to project schedule and cost.

3.0 REQUIRED DOCUMENTS

In order to perform the review, the MTAC will obtain the Real Estate Acquisition and Management Plan (RAMP) and supporting documents (depending on the phase, obtain project cost estimate and schedule documents listed in Section 3.0 of MP 32A Planning and Concept Design or 39 Preliminary Engineering and Final Design.)

In addition the MTAC should access the Uniform Act Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 49CFR24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs.

4.0 SCOPE OF WORK

4.1 MTAC Qualifications

The MTAC performing this review should have significant real estate experience, with working knowledge of Appraisal, Acquisition, Relocation, and Property Management – four major elements of the Uniform Act.

4.2 RAMP Review

The MTAC will confirm that the Grantee's RAMP includes the contents in Appendix A below, and aligns with the following principles:

1. Completeness of real estate information; consistency, appropriate level of detail (for project phase)
2. Real estate cost estimates and schedules are complete, realistic, and fit within the accepted overall project cost estimate and schedule.
3. Real estate risks are identified and risk potential impacts on project scope and cost are evaluated and mitigated
4. Real estate work on the project meets the requirements of all state, local and Federal laws, regulations, and guidance associated with acquiring real estate, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (Uniform Act)

The MTAC should evaluate:

1. Grantee's approach
 - a. Adequacy and soundness of the Grantee's organizational structure relating to real estate acquisition management
 - i. Identification of the individual(s) responsible for performing property management, including contract for demolition
 - ii. Identification of persons or parties to establish offers of just compensation and authorize condemnation
 - b. Understanding of, and assure compliance with, all state, local and Federal laws, regulations, and guidance associated with acquiring real estate.
 - c. Early involvement with real estate work on the project
2. Tools and Document Control
 - a. Use of document control/tracking tools to monitor RE status, avoid impacts
 - b. Plan to deal with changes, corrections, as a result of negotiations, etc.
 - c. Plan for filing and maintaining documents, and organizing parcel and condemnation files
3. Acquisition and Relocations Plan
 - a. Map highlighting the parcels and spreadsheet to track parcels by:
 - i. description of properties, title info
 - ii. lengths of right-of-way, dimensions of parcels
 - iii. full and partial takes
 - iv. residential and non-residential displacements/relocations
 - v. information on major stakeholders, property owners
 - vi. foreseeable impacts due to the acquisitions and relocations

- vii. identification of properties that require environmental mitigation, extensive utility work, or third party coordination
 - NOTE: Hazardous Material Potential - Has a search of historical uses of the parcel(s) been conducted? Has the cost and time to provide environmental mitigation been factored in?
- viii. Status of appraisals
 - b. Type of transaction (per parcel):
 - i. purchase, such as fee simple, etc.
 - ii. acquisition of other property rights, easements, etc.
 - iii. functionally replaced properties (wetlands, parklands, etc.)
 - iv. administrative settlements
 - v. eminent domain
 - vi. relocation/dislocation
 - c. Acquisition and Relocations Schedule
 - i. Consistency between the RE schedule and project schedule
 - ii. Negotiations, offers of just compensation, and closing/escrows
 - iii. Potential condemnation proceedings
 - iv. Draft agreements/agreements
 - v. Relocations- schedule for displacements/relocations showing their relationship with the critical path of the project schedule; schedule for negotiations, offers of just compensation, and closing/escrows
 - NOTE: Re-sequencing of construction due to delayed real estate can result in major cost and schedule impacts to the project. For this reason, coordination between real estate acquisition and construction activities must be evaluated in the following areas:
 - Third Parties:
 - Consider the experience of the local agency/entity (such as a City) in real estate acquisition under Federal acquisition laws.
 - Has the time and cost associated with obtaining agreements from railroads for acquiring parcels, obtaining easements, and performing legal reviews by Grantee and Railroad been considered?
 - Negotiations with a Private or Public Utility Agency: does the agency have the time and ability to perform in a timely manner? Does it have cost estimating and scheduling ability? Consider "Prior Rights" documentation and the potential resultant replacement easement or Right of Way for utility companies. Consider the reasonableness of utility relocation and "betterments" in the project cost.
 - NOTE: Additional Schedule Considerations
 - Appraisal: has the time to order and receive appraisals been considered?
 - Offer: is the time allowed for the property owner to accept the offer considered?
 - Negotiations: if the initial offer is not accepted by the property owner, what is the amount of time allocated to the Grantee to take additional

measures before proceeding to condemnation (if the Grantee has the authority for condemnation)?

- Quick take, condemnation, or eminent domain process: check the amount of time estimated for adequacy
- Grantee's board approval: check the Grantee has allowed adequate amount of time between offer acceptance or the settlement is reached and the Grantee's Board approval
- Review time by funding agencies: has time been allowed for potential multiple agency concurrence (Federal, State, and local)?
- Title: following all approvals and concurrences, what is the time required to transfer ownership?
- Relocations: has the time for relocating business or residence been accounted for?

d. Acquisition and Relocation Costs

- i. Grantee's basis for the estimate; anticipated updates of the estimate
- ii. How the estimate will be compared to actual costs as the project progresses
- iii. If available, the MTAC will review historical data for real estate acquisition in the immediate project area to assess cost uncertainties:
 - NOTE: Estimates for real estate are frequently low. FRA provides a model estimating spreadsheet to assist the MTAC in reviewing the Grantee's approach to estimating real estate costs (refer to Appendix B of this MP). The spreadsheet may help the MTAC to ensure that all components are included in the estimate.
 - Additional costs due to partial acquisitions (damage to remainder).
 - Potential increase between negotiated costs and the appraised cost.
 - Cost of demolition is in estimate
- iv. Relocations: have all the costs of relocating the business or residence (for example replacement and moving costs) been included in the estimate?
- v. Court and Legal Costs: if a settlement cannot be reached, have court and legal costs been considered? Discuss whether "Cost to Cure" costs have been considered.
- vi. Appraisals: Cost of appraisals, review appraisals, survey, title, and closing: has escalation of appraisals versus the timing of actual acquisition been taken into account?
- vii. Negotiations/Just Compensation: Review the adequacy and soundness of the Grantee's plan for conducting negotiations:
 - Who will negotiate?
 - What is their authority?
 - When will negotiations initiate?
 - Who must approve administrative settlements and other concessions to property owners?
 - What is the documentation required during the negotiations process?
 - Who signs the offer letter?
 - Will the negotiator also handle relocation payments?
 - How is the interface between negotiations and condemnation handled?
 - Which documents will the negotiator be expected to provide to legal for settlement and condemnation?

- Will the negotiator be present at closing?
 - Review the adequacy and soundness of the Grantee's plan for establishing an offer of just compensation including identifying responsible staff and the basis of the offer
- viii. Closing/Escrows:
- Who will provide this service?
 - How will it function?
 - What is the estimated length of time to deposit funds to escrow for closing?
 - Which documents will be necessary?
 - What form of deeds will be used?
 - How will property taxes be paid and exempted?
- ix. Condemnation:
- Who will authorize suits?
 - Who will file?
 - What is the relationship between the Grantee and its legal personnel?
 - What authority does the attorney have for settlement?
 - What are progress reporting requirements
- x. Appeals:
- What are the legal requirements for administrative appeals?
 - How will the agency establish and staff an appeal function?
 - Who is the recipient of appeal requests?
 - What is the appeal process?

5.0 REFERENCES – SEE MP 01

APPENDIX A

Sample Table of Contents for Real Estate Acquisition Management Plan

Real Estate Acquisition and Management Plan Elements	
1	<p>Introduction Short history of project</p>
2	<p>Agency’s Real Estate Policies and Procedures referring to applicable statutes, regulations, policies</p>
3	<p>Real Estate Team Organizational Structure Staff and Contractor functions, resumes, description of roles and responsibilities Org chart showing lines of authority -Grantee real estate staff and consultant experience is critical for reducing project risks and uncertainties. The MTAC should evaluate whether the Grantee has adequate experience in acquiring real estate per the requirements of the Uniform Act.</p>
4	<p>Document Control</p>
5	<p>Property Management Plan</p> <p>Disposition Plan</p> <p>Acquisition Process Acquisition Plan -- Ownership and Title Information Acquisition Schedule, include critical path from Project Schedule Pre NEPA ROD: Draft Agreements w/Real Estate Third Parties Post NEPA ROD: Executed Agreements w/Real Estate Third Parties Cost Estimate, Appraisals, Negotiations/Offers of Just Compensation, Final Costs Closing/Escrows Condemnation</p> <p>Relocation Process Relocation Plan – Owner, Tenant information Relocation Schedule, include critical path from Project Schedule Cost Estimate, Negotiations, Final Costs, Appeals</p>

APPENDIX B

Real Estate Cost Estimate Template and Supporting Questions

Cost Estimate Template		Desc/Number of Parcel	Cost	Subtotal	Total
LAND					
	Fee Acquisitions		\$		
	Full Takes		\$		
	Partial Takes		\$		
	Easement Acquisitions		\$		
	Other Rights		\$		
	TOTAL LAND COST			\$	
	Administrative Settlement Rate of ____ x Administrative Increase ____ = ____%			\$	
	Condemnation Rate of ____ x Excess Award ____ = ____%			\$	
	TOTAL LAND/SETTLEMENT				\$
RELOCATION					
	Residential (Owners)		\$		
	Residential (Tenants)		\$		
	Business (Owners and Tenants)		\$		
	Others (Personal Property Moves)		\$		
	Last Resort Housing		\$		
	TOTAL RELOCATION				\$
SERVICES					
	Title Work (Reports, Insurance, Closings)		\$		
	Appraisals		\$		
	Appraisal Reviews		\$		
	Other Services related to acquisition, relocation, property management, etc.		\$		
	Legal (Pre-condemnation)		\$		
	Legal (Condemnation)		\$		
	TOTAL SERVICES				\$
GRAND TOTAL					\$