

16.

COORDINATION WITH OTHER AGENCIES

23 USC §107(d)
23 USC §317
49 CFR Part 24 Subpart G
49 CFR 24.4

REFERENCES

Early and continued coordination with other agencies cannot be stressed enough in smoothing the process of completing projects in a timely and efficient manner. This Section will look at coordination needs with Federal and State agencies, as well as other local public agencies. Some suggestions on

simplifying this process are presented, but the need for positive and continuing contacts and good common sense cannot be overestimated.

16.1. COORDINATION WITH FEDERAL AGENCIES

There are times during the development of a project that an acquiring agency will have to coordinate its highway activities with other federal agencies besides the FHWA. This coordination may require a direct involvement, such as the acquisition of real property or a joint-use project, or an indirect involvement. In such cases, the acquiring agency should coordinate its efforts so that the transportation project development process is not hindered.

Direct involvement such as acquisition involving property of another federal agency can be handled through the Federal land transfer process as discussed in Chapter 14.7. If property cannot be obtained directly from another federal department using that department's statutory authority, section 107(d) or 317 of Title 23 U.S.C. can be used to accomplish the land transfer.

The federal departments or agencies which may require that land transfer be conducted under their own statutory authority include:

Coordination with other agencies is important to the project development process. Other agencies may be able to assist during the relocation process. Still, others will have to be coordinated with to accommodate the myriad of regulations requiring compliance.

SUMMARY

1. Army
2. Air Force
3. Navy
4. Department of Veterans Affairs
5. Bureau of Indian Affairs

Acquisition from these federal agencies should be coordinated directly. These agencies' regulations, governing the disposition of their property, may also require the payment of compensation. Where transfer without compensation is not possible, after negotiating the transfer conditions, the acquiring agency will have to acquire these federal lands through their acquisition process.¹

Other direct involvement with federal agencies may include joint-use or multi-use projects. Such projects may include a highway and mass transit facility, a highway and recreation facility or a highway and land restoration or mitigation projects. Such projects will require coordination with the federal agency funding or participating in the joint project.

Acquiring agencies can become indirectly involved with another federal agency by assisting them with their acquisition program. These federal agencies will often contract with the state and/or local highway agencies or other Federal agencies because of the latter's experiences in administering the acquisition program under the Uniform Act at the state or local levels. Many of the federal agencies do not have local offices to administer their acquisition programs. Federal agencies, such as the Federal Aviation Administration (FAA) and U.S. Coast Guard (USCG), have contracted with state and local highway agencies for land acquisition and relocation as part of airport and Coast Guard projects. Under these circumstances, the acquiring agency should utilize its own procedures for coordinating with those federal agencies.

16.2. COORDINATION WITH STATE AGENCIES

Following the passage of the Uniform Act, each State legislature passed legislation certifying that the State could comply with the provisions of the Uniform Act. These laws are referred to as **State consent legislation** or **implementing legislation**.

State agencies acquiring property and relocating people for any Federal-aid program should be aware of their responsibilities under the Uniform Act, and

¹ See Attorney's Manual cited in Section 14, p.22.

the role of the lead agency in each State. In most States, the State Transportation Department (STD) is the lead agency, and this improves communication and cooperation between local and STD. Coordination of efforts in these areas will lead to uniform treatment of persons affected by a project, and lead to smoother public acquisition processes and the saving of public funds.

STDs have the available expertise to assist other State agencies in acquisition of property and the relocation of persons and businesses. Most STDs have a long history of assisting other state and federal agencies in a variety of public benefit projects. Other transportation and natural resource agencies are among those most often assisted by the STD in acquisition for airports, mass transit facilities, and recreational or environmental mitigation projects. Other state agencies also work with highway personnel, particularly in coordinating public improvements. Regular coordination between agencies is an often sought goal, and improvements in this area lead to mutual benefits.

State highway agencies have extensive experience in applying the requirements of Federal law and regulations implementing the Uniform Act. They are also fully knowledgeable of State law and requirements, and can provide invaluable assistance to other State agencies in the application of these laws and Federal reimbursement requirements. For general guidance, several major concerns are briefly repeated here, and are more thoroughly covered in other sections of this Guide. Acquiring agencies should keep Uniform Act considerations in mind when undertaking Federal aid projects regardless of their funding source.

Thus, acquisition of private property for public purposes is a complex and complicated matter governed by a myriad of law, regulations, and precedents. Familiarity with the applicable considerations is essential for a successful acquisition and relocation program. To provide some broad guidelines on basic Federal requirements, see the summary of the Uniform Act in Section 2.1.

An important element of coordination concerns the flexibility afforded by 49 CFR Part 24 Subpart G, which allows a State agency to apply for certification of its program in lieu of providing assurances required by 49

! Reference 49 CFR Part 24 Subpart G.

! State agency certifies in lieu of providing assurances.

! State certifies it will operate according to approved State law and regulations.

! Benefits are reduced Federal oversight and streamlined operations.

**UNIFORM ACT
CERTIFICATION PROGRAM**

CFR 24.4. This certification concept permits the State agency to fulfill its responsibilities under the Uniform Act by certifying that it will operate in accordance with approved State laws and regulations which will accomplish the purpose and effect of the Uniform Act. This certification program has certain benefits in that Federal program oversight is reduced and the State has the advantage of possibly more streamlined operations as the result.

! Use when two or more agencies need part or all of the same property.

! Cost are prorated based on appraised current value or historical acquisition cost.

JOINT ACQUISITIONS

Another area of coordination exists relative to other projects that involve joint acquisitions with other Federal or federally assisted programs. Usually if acquisitions for two or more programs are needed from the same property, it makes good sense to have one agency acquire the whole property or the part needed by both and then, pursuant

to a prior agreement, receive reimbursement from the other agency for the part it needs.

16.3. COORDINATION WITH LOCAL PUBLIC AGENCIES

In the Federal regulations, "agency" is considered to be any governmental agency which acquires property (see definitions section for more detail).

Individual States have over the years developed a series of laws governing public acquisitions under their jurisdiction. In addition, State agencies have promulgated regulations to facilitate their own acquisition and relocation programs.

The State is ultimately responsible for the acquisition activities of local acquiring agencies on Federal-aid projects, unless the local agency has

Under Section 302 of Title 23, U.S.C., the State transportation department is responsible for all Federal-aid highway projects under the Federal-State relationship, including those projects administered at the county or city level. The State transportation department is the authority responsible for establishing appraisal, acquisition and relocation program requirements for Federal-aid highway projects.

The city or county has the option of accepting the State transportation department's regulations or submitting their own to the State for approval if they wish to deviate from the State's accepted procedures.

KEY POINTS

received approval under the Certification procedures. It is advisable, therefore, that the State and the local acquiring agency work closely together during the entire acquisition process to expedite the acquisitions and to assure that all Federal and State requirements are met.

There should be free and open lines of communication both at the administrative/ management and journeyman levels. Normally, the State will have a larger, more experienced staff which can, and should, serve as a valuable resource for the local acquiring agency. Acquisition activities should be carefully coordinated with other aspects of the project to assure that the appraisals, negotiations, relocation, and property management, including any utility work, are accomplished in a professional and timely manner.

The State and the local acquiring agency should establish a mutually acceptable program of State assistance which will best aid the local acquiring agency in the accomplishment of its acquisition program.

16.3.1. SIMPLIFICATION OF PROCESS

There are few shortcuts in a quality acquisition program, but there are ways to simplify and streamline the acquisition process. Although some of these methods are explored in greater depth in previous chapters in this guide, they are worth repeating here. They may include:

! Selection of the appropriate appraisal format.

LPA ASSISTANCE *Many States have adopted innovative programs for providing assistance and guidance to local acquiring agencies. In all States, LPA coordination is designed to assist local agencies in fully complying with Federal and State requirements. Some of the **methods used to provide this assistance include:***

! Designation of a *local acquiring agency coordinator* in the State ROW organization to provide information and establish appropriate contacts within the State staff.

! Providing *training* for local acquiring agency personnel, especially in the more technical acquisition areas.

! Closely *monitoring* local acquiring agency activities on a regular and ongoing basis.

! Providing *technical services* to local acquiring agencies which they may not be able to provide or procure for themselves.

! Provide *advisory services, brochures, form and sample letters* developed to meet Federal as well as State requirements.

STATE LPA ASSISTANCE

- ! Use of a roster of qualified appraisers.
- ! Single appraiser/negotiator
- ! Notice of Intent to Acquire
- ! Use of the minimum payment provision.
- ! Accelerated Negotiations.
- ! Use of administrative settlements.
- ! Use of a brochure to explain the acquisition process.

Benefits of Simplification: Saves money (cost of program delivery), saves time, and provides more convenience to the property owner.

16.3.1.1. SEPARATION OF FUNCTIONS

Those charged with managing and implementing acquisition programs have a responsibility both to the governmental body and to the public to ensure that such acquisition programs are professionally and fairly carried out.

It is important that program managers are aware of the length of time necessary to accomplish the appraisal/acquisition program function. Sufficient time is required to perform the statutory requirements of the Uniform Act. When other project activities such as environmental studies and/or design functions encroach on the necessary right-of-way time, the construction letting dates will be affected. Obviously, the right-of-way time element will vary depending upon the number and complexity of the parcels to be acquired for a specific project. (For a more detailed discussion of lead time, see Section 2.6)

LEAD TIME

To this end, ***it is imperative that certain functions in the acquisition process be kept separate and distinct:***

- ! It is the **appraiser's function** to estimate the fair market value of the property or property interest to be acquired.
- ! It is the **review appraiser's responsibility** to examine the appraisal report to assure that it meets the acquiring agency's appraisal standards and to seek correction or revision when necessary.
- ! It is also the **reviewer's responsibility** to recommend or approve a monetary amount for the property or property interest to be acquired. Neither the

appraiser, the review appraiser, nor the negotiator shall have any interest, direct or indirect, in the property which is being acquired.

No appraiser shall act as a negotiator involving real property which that person has appraised, except that the acquiring agency may permit the same person to both determine the value of and negotiate an acquisition where the value of the acquisition is \$2,500 or less, unless otherwise approved by an agency waiver of the regulations. However, this valuation should usually be reviewed and approved before the commencement of negotiations, although there may be exceptions to this under certain circumstances as discussed in Section 9.7.

It is important that the acquiring agency assure that there is no conflict of interest in the acquisition process. All aspects of the acquisition program must be achieved with discretion and confidentiality.

Just as the government has the right to acquire private property, the **owner of the private property also has rights, such as the right to receive just compensation.** The acquiring agency should advise property owners of their rights by means of a written statement or brochure and assure that they receive all of the services and payments to which they are entitled.