

funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (See appendix A, section 24.102(i).)

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (See appendix A, section 24.102(j).)

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See section 24.2(a)(28).)

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term or a period, subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (See appendix A, section 24.102(m).)

(n) *Conflict of interest.* No appraiser, review appraiser or other person making an appraisal or a waiver valuation under § 24.102(c)(2) shall have any interest, direct or indirect, in the real property being valued for the Agency that would in any way conflict with the preparation of the appraisal, the waiver valuation or the review of the appraisal.

Compensation for making an appraisal or a waiver valuation shall not be based on the amount of the valuation estimate. No person functioning as a negotiator for a project or program shall supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program, except that, for a program or project receiving Federal financial assistance,

the Federal funding agency may waive this requirement if it determines it would create a hardship for the Agency. No appraiser or other person making an appraisal or a waiver valuation shall act as a negotiator for real property for which that person has made an appraisal or a waiver valuation, except that the Agency may permit such person to negotiate an acquisition where the offer to acquire the property is \$10,000, or less. (See appendix A, section 24.102(n).)

§ 24.103 Criteria for appraisals.

(a) *Appraisal requirements.* These regulations set forth the requirements for real property acquisition appraisals on Federal and federally-assisted programs. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. An appraisal must contain a scope of work statement and sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. The Agency shall develop minimum requirements for simple appraisals consistent with established and commonly accepted Federal and federally-assisted program appraisal practice for those acquisitions, which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect established and commonly accepted Federal and federally-assisted program appraisal practices, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.¹ At a minimum, a detailed appraisal shall contain the following items: (See appendix A, sections 24.103 and 24.103(a).)

(1) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5 year sales history of the property.

(2) All relevant and reliable approaches to value consistent with

established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (See appendix A, section 24.103(a).)

(3) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(4) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(5) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* The appraiser shall disregard any decrease or increase in the market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (See appendix A, section 24.103(b).)

(c) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.

(d) *Qualifications of appraisers and review appraisers.* (1) The Agency shall establish criteria for determining the minimum qualifications of appraisers and review appraisers. Qualifications shall be consistent with the level of difficulty of the assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers and review appraisers and use only those determined to be qualified. (See appendix A, section 24.103(d)(1).)

(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to § 24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and

¹ The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at <http://www.usdoj.gov/enrd/land-ack/toc.htm> or in soft cover format from the Appraisal Institute at <http://www.appraisalinstitute.org/ecom/publications/Items.asp?ID=3> or call 888-570-4545.