



Local Program Real Estate Manual (LP RE Manual)



**Supplement to the Real Estate Program Manual
(REPM)**



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PURPOSE

The *Local Program Real Estate Manual* (LP RE Manual) (formerly *Local Public Agency (LPA) Manual for Right of Way Acquisition*), is intended to assist Local Public Agencies (LPAs) in the state of Wisconsin to secure funding for local road projects and is to be used as a guide to right of way acquisition. This manual briefly describes the processes, documents and approvals necessary to obtain Wisconsin Department of Transportation (WisDOT) and/or Federal Highway Administration (FHWA) funds. This is a compilation of information from many sources and is intended as a reference for administrative and field personnel in local governmental agencies. It is not intended to be a comprehensive document. The official version of this manual is the online/electronic publication. Access is available via the WisDOT Local Program real estate website (link: [Local Program Real Estate Website](#)). It is intended to be a living document; hence, it will be revised periodically to reflect new requirements. It will also be changed as needed to make it more useful to its readers. Users should use the current online/electronic publication for reference.

LPAs must follow the minimum procedures outlined in this manual to secure the approvals needed to proceed with right of way acquisition on state or federal aid projects. The request for use of federal funds in right of way is to be coordinated with the regional Local Program Real Estate Project Manager (LPREPM) assigned to the area in which the local project is located. **It is the responsibility of the LPA to ensure that all state and federal procedures and laws are followed.**

This manual is a sub-section of the larger *Real Estate Program Manual* ([REPM](#)). Both manuals can be found on WisDOT's website. To obtain additional detailed information, direction and guidance relating to the policies and procedures as outlined and discussed throughout this manual, you should make frequent reference to and use of the REPM in its entirety.



Caution! Do not start the acquisition process until the following approvals have been obtained and documented in the project files:

- **Design Study Report**
- **Right of Way Plat or Construction Plan**
- **Relocation Plan (if required)**
- **Relocation Order**
- **Acquisition Capability Statement/Real Estate Contracts**
- **Real Estate Funding Approval (when state and/or federal aid is in right of way)**

Exception: For advanced acquisitions, see Section 1.5 Advanced Acquisitions.

Legal references:

[Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended \(Uniform Act\); 49 CFR; and, 23 CFR; Chapter 32/Eminent Domain, Wisconsin Statutes; Dept. of Administration/Admin Code: Chapter 92 - Relocation Assistance.](#)

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Acronyms used:

FHWA	Federal Highway Administration
LPA	Local Public Agency
DOA	Department of Administration
LPPM	Local Program Project Manager
LPREPM	Local Program Real Estate Project Manager (formerly LPA RE Coordinator)
LPREM	Local Program Real Estate Manager (formerly Statewide LPA RE Facilitator)
REPM	<i>Real Estate Program Manual</i>
LP RE Manual	<i>Local Program Real Estate Manual</i> (formerly <i>Local Public Agency (LPA) Manual for Right of Way Acquisition</i>)
WisDOT	Wisconsin Department of Transportation
BTS-RE	Bureau of Technical Services-Real Estate (central office)
DTIM	Division of Transportation Investment Management
BTS	Bureau of Technical Services
RE	Real Estate
ROW	Right of Way
READS	Real Estate Data System
CP	Construction permit
FEE	Fee purchase
HE	Highway easement
PLE	Permanent limited easement
TLE	Temporary limited easement
PS&E	Plans, Specifications and Estimates
RFP	Request for Proposal
PCA	Project Cost Allocation
TPP	Transportation Project Plat
NPPR	Nominal Payment Parcel Report

CHAPTER 1.0 - PROJECT DEVELOPMENT

The overall Local Public Agency (LPA) program is administered by the Wisconsin Department of Transportation (WisDOT), Division of Transportation Investment Management (DTIM). In addition to DTIM's program management, the Division of Transportation System Development (DTSD), regional program management team, delivers the project management and oversight activities. A DTSD Local Program Real Estate Project Manager (LPREPM) from the regional program management team is assigned to help coordinate and manage all real estate related activities.

1.1 NOTIFICATION PROCEDURES

The LPA must initiate and maintain communications on all right of way projects with the WisDOT LPREPM (formerly called LPA RE coordinator).

Right of way includes (but is not limited to):

- Access rights
- Construction permits
- Encroachments
- Fee purchase
- Highway easements
- Permanent limited easements
- Temporary limited easements
- Utilities

Construction projects being let under the state of Wisconsin letting program must conform to right of way (ROW) certification. See Chapter 11.0 - Certification and Records. Additionally, transportation projects with ANY federal funding (for example in real estate, design, construction, etc.) must also have ROW certification due to federal regulations.

1.2 UTILITY AND RAILROAD COORDINATION

Under federal regulation, acquisition or relocation of utility and railroad parcels is managed under different processes than the acquisition of highway ROW. The LPA must be aware that there may be differences in the relevant procedures used to relocate utilities, depending on the source of funding. The use of federal versus state funds will determine what specific actions must be taken to coordinate the clearing of utility interests. Like highway ROW, utility parcels and railroad parcels must be acquired prior to the date set for Plans, Specifications and Estimates (PS&E). The coordination of utility and railroad parcels should begin early in the design process. For questions, contact your Local Program Project Manager (LPPM).

1.3 ENCROACHMENTS

An encroachment is any unauthorized use for a non-public highway purpose located partially or wholly within the highway ROW. This includes, but is not limited to: buildings, signs and fences as well as any other non-permitted uses, such as parking lots, driveways, etc. Encroachments are not allowed within local highway improvement projects, unless authorized by a Revocable

Occupancy Permit. Encroachments shall not be created by the purchase of new highway ROW for a project.

NOTE: The LPA is responsible for addressing all encroachments including which will be required to be removed and which will be issued a revocable permit. Contact your LPREPM if there are questions or concerns. The encroachment report should be filed in the LPA's project folder.

1.3.1 Revocable Occupancy Permits

A Revocable Occupancy Permit may be issued for an existing encroachment.

A Revocable Occupancy Permit should include:

- Name of owner for the encroachment and name of adjacent landowner upon whose property encroachment exists, if different.
- Description and photograph of encroachment.
- Copy of construction plan or real estate plat showing location of encroachment with sketch and indicating distances to existing ROW lines and centerline of proposed highway.
- Statement authorizing encroachment to remain that includes the following: 1) encroachment will not conflict with public interest; 2) encroachment will not impair highway; and, 3) encroachment will not interfere with the free and safe flow of traffic.
- Because there should be no encroachment in proposed clear zones or vision corners, request should describe clear zone dimensions and/or vision corner dimensions, as appropriate.

If the LPA chooses not to issue a Revocable Occupancy Permit on an encroachment, they should be sure to take the appropriate steps to have it removed. If an encroachment is approved, then the LPA should be sure to have the permit recorded at the county Register of Deeds office. When the encroachment is a sign owned by a business operator who does not own the property, copies of the permit are sent to both the owner of the encroachment and the owner of the property.

The LPA should not issue Revocable permits for:

- Abandoned buildings
- Encroachments created due to purchase of new ROW
- Free-standing signs with bases wholly on new ROW
- Proposed encroachments
- Underground fuel tanks located within ROW
- Well and septic

1.4 HAZARDOUS WASTE AND ASBESTOS ABATEMENT

Investigations for the presence of hazardous waste within the project limits are executed as part of the design process. Since cleanup of these sites can be extremely costly, the first defense is to avoid contaminated sites if possible. Situations will arise where the purchase of a contaminated site cannot be avoided. Contact the LPREPM for specific instructions.

One potential environmental hazard to be aware of involves the presence of friable asbestos. For many years, asbestos materials were used in buildings for several different purposes. Under certain circumstances, the asbestos fibers begin to abrade and flake off. These “friable” fibers are more easily spread throughout the environment via wind or water. If the improvement project requires acquisition of structures containing friable asbestos and its presence would affect the value of the property in the market, the presence of the asbestos materials within the structure should be considered by the appraiser and discussed as an element affecting the fair market value in the appraisal report. Refer to the REPM, Chapter 2 for detailed appraisal information. Because friable asbestos poses this environmental risk, the biggest potential problem is in the moving or razing of buildings containing asbestos. A moving or demolition contractor must be capable of moving or disposing of the building without releasing asbestos particles into the air. Once the presence of friable asbestos is confirmed, the LPA must follow the procedures set forth by the Wisconsin Department of Natural Resources, web reference at: <http://dnr.wi.gov/topic/Demo/>.

1.5 ADVANCED ACQUISITIONS (Hardship/Protective Purchases)

Only under unusual circumstances, may parcels be acquired in advance of normal procedures. Contact your LPREPM for guidance on all advanced acquisitions. For additional details, also reference WisDOT’s REPM: Chapter 3 - Acquisition/Section 3.2 Early and Advanced Acquisitions. Any advanced acquisition will require approval of WisDOT BTS-RE (Bureau of Technical Services-Real Estate [central office]) or the FHWA depending on the source of funding.

1.6 EARLY ACQUISITIONS

Early acquisition requires approval from the LPREPM. Contact the LPREPM for more guidance. For additional details, also reference the WisDOT REPM: Chapter 3 - Acquisition/Section 3.2 Early and Advanced Acquisitions.

CHAPTER 2.0 - PROJECT STAFFING / ACQUISITION CAPABILITY STATEMENT

2.1 SEPARATION OF FUNCTION REQUIREMENT

To ensure state and federal participation in project funding, and whenever state and/or federal funds are involved in any part of the project, the LPA must comply with the separation of function requirements. Separation of function requires the appraiser, the review appraiser, and the negotiator to be three different persons. For example, the appraiser is not permitted to negotiate the parcel, the negotiator is not permitted to appraise, etc. See Sections 5.6 Exemption from "Separation of Function" Requirement and 6.7 Relocation Assistance for specific exceptions. These provisions apply whether such person is a salaried employee of the acquiring agency or is retained as a consultant on a fee-for-services basis.

2.2 MINIMUM QUALIFICATIONS FOR R/W PERSONNEL

Federal regulations ([23 CFR](#)) require that all persons performing right of way acquisition functions on federal aid projects be qualified and competent. This requirement applies whether the persons performing right of way acquisition functions are employees of the LPA or fee consultants. Accordingly, the WisDOT BTS-RE has established minimum standards applicable to state or federal funded highway projects. These minimum standards are described below. The LPREPMs maintain a list of individuals who are approved as LPA staff or consultants for appraisal, review appraisal, negotiations and relocation assistance programs. A copy of the list is available upon request and can also be found at: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

NOTE TO APPLICANTS (LPA staff and consultants):

The statewide Local Program Real Estate Manager (LPREM) and the regional LPREPMs review all requests and will either approve or deny them. If denied, a reason will be sent via email. If approved, an email will be sent along with a LPA Approved Staff/Consultant Acknowledgement form. This form must be signed, dated and returned before the applicant's name will be added to the appropriate list.



Caution! 'Individuals' are approved for handling right of way functions, not LPAs, companies or firms.

2.2.1 LPA Staff

LPA staff who wish to conduct work in ROW acquisition, including acting as the negotiation agent, must be experienced and up-to-date on all processes, procedures and requirements found in this manual. The LPREPM is available for any questions and will provide guidance upon request, however it is expected that the LPA staff is experienced enough to conduct the acquisition activities independently.

Along with having practical experience acquiring ROW on transportation projects with eminent domain power, the LPA staff negotiator must possess knowledge, skills, and abilities in such areas as:

- Eminent domain process

- Federal regulations, State statutes, and WisDOT policies pertinent to the acquisition process particularly regarding the Uniform Act
- Reading ROW plats/TPPs
- Basic relocation assistance requirements
- Construction plans and cross-sections
- Title reports
- Legal descriptions
- Conveyance and file documents

LPA staff not already listed on the approved list should fill out the Negotiator Application found on the WisDOT Local Program RE website and submit to the LPREPM working on the project. The link to the website is <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

2.2.2 Appraisers

The LPA may choose any appraiser on the approved list. If the appraiser chosen is not currently on the approved list, then ask them to submit an Appraiser/Review Appraiser Application which can be found on the WisDOT Local Program RE website and submit to the LPREPM (contact information is found on the WisDOT Local Program RE website). The link to the website is: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

Appraisers seeking admittance to the approved appraiser list must meet specific criteria:

- Be a “Certified Residential Appraiser” or “Certified General Appraiser” to complete detailed or complex appraisals or be a full-time employee of the LPA (LPA staff are exempt from the certification requirements).
- Uniform Standards of Professional Appraisal Practice (USPAP) requires that the appraiser must have both the knowledge and the experience for any assignment accepted, or they must confer with another qualified appraiser for guidance.
- Have at least one year of experience in ROW appraisal work for entities with the power of eminent domain (preferably in Wisconsin) or demonstrate the ability to fulfill the requirements of such appraising.
- Must be able and willing to use the WisDOT Real Estate Automated Data System (READS). If unfamiliar with READS, the appraiser must contact the LPREPM for training options.

NOTE: To demonstrate their level of expertise, candidates may be asked to submit sample appraisal work to the LPREPM or LPREPM.

2.2.3 Review Appraisers

When there are only local funds in the real estate, the LPA may choose to have a qualified staff member review and approve appraisals. A consultant review appraiser may also be used (the consultant must be in current and acceptable standing with the approved list). If there are Federal/State funds in the real estate, then a WisDOT Review Appraiser will be

assigned to the project. The LPA should work with the LPREPM in this case or if there are questions.

All parties acting as the review appraiser (including LPA staff) must have all the appraiser qualifications (listed above), plus:

- Ability to logically analyze appraiser's approach to value and recognize deficiencies in reports.
- Experience reviewing eminent domain appraisals.
- Knowledge of condemnation proceedings.
- Must be able and willing to use the WisDOT READS. If unfamiliar with READS, the review appraiser must contact the LPREPM for training options.

If a consultant will be conducting the reviews and is not currently on the approved list, then ask them to submit an Appraiser/Review Appraiser Application which can be found on the WisDOT Local Program RE website and submit to the LPREM (contact information is found on the WisDOT Local Program RE website). The link to the website is:

<http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>

NOTE: Where the LPA elects to review appraisals in-house, qualified staff are exempt from the appraiser certification requirements listed above.

2.2.4 Negotiation Consultants

The LPA may choose to acquire ROW on its own project or may choose a negotiation agent on the approved negotiator list.

Negotiation consultants seeking admittance to the approved negotiator list are expected to be experts in eminent domain acquisition in Wisconsin and able to provide the LPA with guidance and accurate documentation.

Along with having practical experience acquiring ROW on transportation projects with eminent domain power, the consultant negotiator must possess knowledge, skills, and abilities in such areas as:

- Eminent domain process
- Federal regulations, State statutes, and WisDOT policies pertinent to the acquisition process particularly regarding the Uniform Act
- Reading ROW plats/TPPs
- Basic relocation assistance requirements
- Construction plans and cross-sections
- Title reports
- Legal descriptions
- Conveyance and file documents

Negotiation consultants who wish to be added to the approved list should fill out the Negotiator Application found on the WisDOT Local Program RE website and submit to the LPREM (contact information is found on the Local Program Real Estate website). The link to the website is <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

2.2.5 Relocation Assistance Specialists

The LPA may choose to conduct relocation assistance on its own project or may choose to use a relocation specialist on the approved relocation specialist list. If the chosen relocation agent or LPA staff member is not currently on the approved list, then they should submit a Relocation Specialist Application which can be found on the WisDOT Local Program RE website and submit to the LPREM (contact information found on the Local Program Real Estate website). The link to the website is: <http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

LPA staff who will be performing their own relocation assistance, must be up-to-date on all processes, procedures and requirements found in this manual as well as the REPM. It is important to remember that when Federal/State funds are used ANYWHERE in a project, additional relocation related requirements are triggered. The LPREPM is available for any general questions and will provide guidance upon request, however it is expected that the LPA staff is experienced enough to conduct the relocation assistance independently. Best practice is to hire an experienced relocation specialist from the approved list.

Individuals seeking admittance to the approved relocation specialist list are expected to be experts in eminent domain acquisition, relocation practices and procedures and are expected to provide the LPA with guidance and accurate documentation. For more detailed explanation on skills and knowledge required please see the Relocation Specialist Application (found on the link listed above).

2.2.6 Continuing Education/Expertise

The LPA Sponsor chooses its consultants from WisDOT's Statewide List of Approved LPA Fee Appraisal Consultants and the Statewide List of Approved Fee Negotiation and/or Relocation Consultants lists. All consultants on this list are expected to be the experts in their chosen field. This includes being up-to-date on all the process, procedures, and requirements listed in both this manual and in the REPM. LPA staff who are approved and conduct ROW activities are also expected to participate in continuing education and to maintain expertise.

Periodically, WisDOT will offer real estate or appraisal related seminars, webinars, and trainings free of charge. It is expected that Local Program approved real estate consultants and LPA staff should always RSVP to invitations to these events. Attendance is taken at all events and attendees are cross referenced with the approved real estate consultant lists. (If a consultant or LPA staff person cannot make an offered event they must still RSVP with the reason for not attending.) All seminars and trainings offered will be posted on the Local Program RE website which will allow the consultant and LPA staff person to fulfill the training requirement. The LPREM should be notified upon completion (contact information found on the LPA RE website). Contact information and lists are found at <https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>.

2.2.7 LPA Staff / Consultant Performance

Approved LPA staff and consultants are expected to be up-to-date on all procedures and practices. The negotiator, whether LPA staff or a consultant, is expected to provide expert

guidance to the LPA Sponsor and to know all the federal and state regulations and laws. The negotiator will be familiar with both this manual and the REPM. Proper documentation is paramount in the local program, and the negotiator should know what type of documentation is required and where to find the most up-to-date version of any required forms. The LPREPMs are available to discuss any concerns and answer questions, however they should not be relied upon for quality control.

Note: The official forms and documents are found in READS (in some cases Local Program specific forms or letters will only be found on the LPA real estate website, <https://wisconsin.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>). The forms are subject to change without notice and, therefore, should always be downloaded from READS or in some cases from the LPA RE website.

2.2.8 LPA Staff / Consultant Evaluation

All consultants and LPA staff who perform ROW activities on a project will be evaluated by the regional LPREPM upon completion of Certification 1 status. All evaluations will be shared with the LPA Sponsor and consultant (if applicable). The evaluation forms are found on the LPA real estate website (<https://wisconsin.gov/Pages/doing-bus/local-gov/astnce-pgms/aid/lpa-re-info.aspx>).

The evaluation will be used as a tool in verifying that the consultants/LPA staff are adequately performing by:

- Meeting deadlines, especially PS&E deadline
- Guiding LPA Sponsors throughout the project
- Knowing the process, procedures, and requirements as listed in all the manuals (REPM, FDM, LP RE Manual, etc.)
- Submitting correct documentation in a timely manner

2.2.9 Unsatisfactory Performance by a LPA Staff / Consultant

The LPREPM will contact the consultant/LPA staff for inadequate performance and will make suggestions for ways to improve. Continued unsatisfactory performance will result in the removal of the consultant's or LPA staff person's name from the approval list until corrective measures (to be determined) are made.

2.3 ACQUISITION CAPABILITY STATEMENT

An Acquisition Capability Statement (unnumbered - paper only and found in the LP RE website) must be completed for every project.

To qualify for consideration as a fee appraiser, fee negotiator, or relocation specialist, a qualified person must be placed on the list of approved individuals for the type of acquisition work sought. Unless previously approved and already included on the approved list of qualified consultants, the LPA must submit a resume for each individual consultant proposed to perform any part of the right of way work and must submit a completed Acquisition Capability Statement. The resume must reflect or demonstrate the individual's qualifications that fulfill the required

minimum qualifications. The completed Acquisition Capability Statement with resumes attached, must be sent to LPREPM for review and approval. Any proposed change or addition to individuals providing fee services during a project requires an addendum or revision to the Acquisition Capability Statement.



Caution! It is recommended that no contract(s) be signed by the LPA until after the Acquisition Capability Statement and contract(s) are approved by the LPREPM.

2.4 CONTRACTS

If state and/or federal funds are involved in the right of way acquisition, contracts for consultant services in the areas of appraisal, negotiation and relocation must be reviewed and approved by LPREPM. No work is permitted to begin under any of these contracts prior to obtaining WisDOT approval.

2.4.1 Contract Forms Required

When state and/or federal funding is used for the acquisition of the right of way, the use of WisDOT standard contract language and contract forms is required. Contact the LPREPM with any questions



Caution! If state and/or federal funds are used in right of way acquisition, the use of WisDOT forms for fee consultant contracts is required.

2.4.2 State and/or Federal Funding in R/W Acquisition Bidding Requirements

LPAs must follow the open and competitive bidding procedures whenever there is state and/or federal funding in the right of way acquisition phase of the project. Reference [49 CFR 18.36 - Procurement](#). Depending on the amount of the contract, LPAs will follow one of the two processes outlined below.

Small purchase procedure (contracts \$100,000 or less): This is a procurement process whereby a minimum of three (3) qualified vendors are contacted and given an objective set of criteria such as description of the project, project completion date, etc. Vendors include a price proposal as a component of their response. The LPA must then base its selection from the responses and must document information, including: firms contacted, their responses, which was selected, rationale for selection and the names of the selection committee. Vendors can give verbal responses. Written responses may be requested but not required.

Formal procurement procedure (contracts greater than \$100,000): These contracts must use a formal solicitation/advertisement process. This may be accomplished through local or state newspapers, or through a roster of eligible consultants. A Request for Proposal (RFP) is typically used. Interested consultants respond with the requested information. A selection committee reviews the responses and then selects the consultant most qualified to perform work. Price is a component of the RFP and is used in conjunction with other qualifications to determine the selection. Documentation must include the rationale for the selection and names of the selection committee.

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Work Credits, applied to construction from associated real estate acquisitions are considered the same as if using state or federal funding in right of way acquisitions.

NOTE: No State and/or Federal Funding in R/W Acquisition

If there are state and/or federal funds in any part of the project, the LPA is still required to comply with the Uniform Act as it relates to all other aspects of the acquisition. This means that the LPA is responsible for selecting qualified consultants who have the skills and knowledge necessary to understand and apply the Uniform Act. For further guidance, contact your LPREPM.

CHAPTER 3.0 - PRELIMINARY R/W ACTIVITIES

By this phase in the acquisition process, you should possess an approved environmental document and Design Study Report.



Caution! [Section 86.255, Wis. Stats.](#) prohibits use of state segregated transportation funds collected and distributed in accordance with [s. 20.395\(3\), Wis. Stats.](#) for the purchase of any interest in real estate beyond one quarter mile from the edge of the project's right of way line. This prohibition may extend to any state or federal funded LPA right of way project.

3.1 STATE AND FEDERAL AID COST ESTIMATE

When state and/or federal aid is used in the right of way, a cost estimate must be prepared by a qualified individual and submitted to the LPREPM prior to executing and filing the Relocation Order. Preparation of the relocation plan and cost estimate is reimbursable as a design cost. The cost estimate provides justification upon which the requested funding is set aside (encumbered) for the project. If federal funding is in the real estate acquisition, no costs incurred will be eligible for reimbursement under the real estate ID until funding has been encumbered. See Project Cost Estimate (Ipa3045 – paper only found on LP RE website). Once the LPA has submitted the cost estimate, the LPREPM will process the Project Cost Allocation (PCA) form in READS. Project real estate funds will not be encumbered until these steps are completed.

3.2 RELOCATION ORDER

Wisconsin statutes provide the authority and procedures for all LPAs to acquire right of way in the following chapters: [Cities, Chapter 62.22](#); [Counties, Chapters 83.07](#) and [83.08](#); Villages, Chapters [61.34\(3\), \(3m\)](#) and [61.36](#); and, Townships, [Chapters 60.50](#) and [82.12](#). In each instance, whichever unit of government is the acquiring agency, condemnation for real estate interests needed for the highway right of way projects proceeds under [s. 32.05, Wis. Stats.](#) Prior to beginning the process of acquiring right of way, [s. 32.05\(1\), Wis. Stats.](#), requires that the LPA file an order with the clerk of the county in which the right of way acquisition activities will occur identifying the old and the new locations of the facility and the lands and interests required. This order is called the Relocation Order (RE1708 in READS or Ipa1708 – paper only found on LP RE website). To accomplish this, each parcel to be acquired must be shown on a right of way plat that will contain a "Schedule of Lands and Interest Required" identifying the specific property and property interests required to construct the proposed facility. A copy of this plat must be included with the filing of the Relocation Order. In addition, the statute permitting the LPA to pursue acquisition activities must be entered on the Relocation Order. The law requires that the Relocation Order and the plat be filed "within 20 days after its issue ... with the county clerk of the county wherein the lands are located." [Section 32.05\(1\), Wis. Stats.](#) WisDOT requires the LPA to send a copy of the approved Relocation Order to the LPREPM.



Caution! Wisconsin statutes require the Relocation Order and plat to be approved prior to any real estate negotiations.



Caution! When there is RELOCATION - The Relocation Order cannot be approved by LPA until WisDOT reviews and approves the Acquisition Stage Relocation Plan. See Section 6.7.4 Acquisition Stage Relocation Plan.

3.2.1 Transportation Project Plats (TPPs)

The LPA has the option to acquire properties under a Transportation Project Plat (TPP) rather than a standard right of way plat. TPPs include an individual Relocation Order on each TPP sheet. TPP sheets are recorded with the Register of Deeds in the county where the property being acquired is located. Sending a copy to the county clerk is not required. However, the 20-day period to file is still applicable. For more on TPPs, see [s. 84.095, Wis. Stats.](#) and [FDM/Sections 12-10-1 through 20.](#)

3.2.2 Exception to Relocation Order Requirement

By Wisconsin law, projects with a total compensation of less than \$1,000 for all parcels (including utilities), do not require a Relocation Order. These types of projects usually involve extremely minor acquisitions, and the estimate of total compensation must be based on a determination of the market values of the damages caused by the project. In other words, the value of the property, not the amount the LPA expects to pay, is used to calculate the total compensation for this exception. The final determination of which projects qualify for this exception shall be made by the LPREPM.

3.4 RIGHT OF WAY PLATS

A right of way plat should show minimum requirements that would include but are not limited to the following list. Also, see sub-section 3.2.1 on Transportation Projects Plats; the WisDOT Facilities Development Manual (FDM), Chapter 12; and, contact your LPREPM with any additional questions.

NOTE: The LPREPM will not NOT review real estate information on TPP or plats. The LPA is responsible for providing an accurate plat/TPP. They should be sure to review its work for quality control.

- All rights to be acquired, such as easements, permits, etc.
- Area of parcel to be acquired and any parcel remnants.
- Beginning and ending stations.
- Old and new right of way limits with sufficient ties to survey line allowing for legal descriptions of area to be acquired.
- Parcel identification numbers.
- Schedule of interest.
- Survey line or centerline for alignments.
- Signature block of the approving authority.
- Date of approval.
- Proper State citations



Caution! Construction plans with a Schedule of Lands and Interests Required may be used instead of a right of way plat when total parcel value, including utilities as estimated by market, is under \$1,000.

3.5 START – UP MEETING

The LPA (with the assistance of the LPREPM) should conduct a Start-Up Meeting with all parties involved in the acquisition phase. Start-up meetings will typically take place in person however the LPA and LPREPM should discuss and arrange for other means if applicable. When state and/or federal funds are involved in the right of way acquisition, the LPREPM may require participation of a WisDOT review appraiser. Parcels that would qualify for handling under nominal payment procedures and those parcels requiring relocation assistance should also be identified at this meeting. See Chapter 5.0 - Nominal Payment Parcels (\$25,000 or Less) and Section 6.8 IRS Requirements. The following topics will be reviewed and discussed at the meeting:

- Time schedules and personnel assignments
- Nominal acquisitions
- Appraisal approaches and report formats
- Fixture determinations
- Remnant parcels
- Encroachments
- Relocation assistance
- Hazardous waste or other parcel sensitive issues
- Required offering price approval process
- Certification 1 procedures and requirements
- Reimbursement procedures
- Utility Release of Rights parcels
- Railroad parcels
- Plat/TPP review of real estate information
- Partial release of mortgage / risk assessment with property owner risk assessment acknowledgement
- Quality control
- Documentation
- READS

CHAPTER 4.0 - APPRAISAL PROCESS

The LPA should review the appraiser's resume and work experience, references and work quality. Although, in most cases, the LPA will subcontract this work to private individuals or firms, the LPA should be familiar with the minimum qualifications for right of way personnel listed in Section 2.2 Minimum Qualifications for R/W Personnel. It is important to note that the Uniform Standards of Professional Appraisal Practice (USPAP) requires that the appraiser must both have the knowledge and experience for any appraisal assignment they accept, or they must confer with another qualified appraiser for guidance. NOTE: Consultant appraisers hired to provide appraisal services on state or federal aid right of way projects must be state licensed or certified appraisers. For detailed information on appraisal work, process, requirements and policy see Chapter 2 Appraisals in the REPM (link: <https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnsit-rsrces/re/repm.aspx#chapter2>).

The following information is found in Chapter 2: Appraisals in the REPM:

- 2.0 General Appraisal Policy
- 2.1 Appraisal Administrative Items
- 2.2 Appraisal Field Work
- 2.3 Eminent Domain Appraisal Reporting
- 2.4 Eminent Domain Appraisal Concepts
- 2.5 Waiver Valuations

4.1 APPRAISAL REVIEW

The review appraiser will approve the offering price. The LPA should be sure to hire a consultant for appraisal review or use one of their staff if qualified. This is an important step in the acquisition phase because any appraisal report presented to the owner must be accurate and error-free. For detailed information, see Chapter 2.6 Appraisal Review Guidelines in the REPM (link: <https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnsit-rsrces/re/repm.aspx#chapter2>).

4.1.1 Appraisal Review with Only Local Funds

The LPA must have an appraisal review process in place for in-house approved offering prices:

- There are only local funds involved in the right of way acquisition;
- The appraisal reviewer is either a qualified member of the LPA staff or a qualified consultant able to make a technical review of the appraisal; and,
- Prior to the initiation of negotiations, both the appraisal reviewer and an authorized employee of the LPA approve the offering price in writing.

The appraisal reviewer must conclude that the appraisal report meets all requirements and should, prior to approval, obtain any required corrections or revisions. The appraisal reviewer shall prepare an Appraisal Review Report (RE2128 – READS template or lpa2128 – paper from LP RE website) that indicates the extent of the review process, and which documents the results of the appraisal review. Also, see Offering Price Report and Submittal (RE1894 – READS template or lpa1894 – paper from LP RE website).

4.1.2 Appraisal Review with State or Federal Funds

If state or federal funds are used in the right of way acquisition process, the review appraiser must be a WisDOT statewide review appraiser. Prior to commencing negotiations with a property owner, the WisDOT statewide review appraiser must approve all offering prices for those parcels requiring an appraisal.

4.2 OFFERING PRICE APPROVAL PROCESS (with State/Federal funds in RE only)

The WisDOT review appraiser shall approve:

- An Offering Price Report and Submittal (RE 1894 – READS template or lpa1894 – paper form from LP RE website) indicating the approval of the amount of compensation to be offered to the property owner;
- Where applicable, an alternate offering price when the offer includes any property considered an uneconomic remnant. An uneconomic remnant is defined as a parcel remaining after the acquisition that has little or no utility to the property owner. See [S. 32.05\(3m\), Wis. Stats.](#) See Section 2.6.10.2 Alternate Offers from the REPM. Use The Alternate Offers to Purchase form (RE1975 – READS template or lpa1975 – paper from LP RE website).

NOTE: To avoid the need for numerous approvals by multiple agencies, it is strongly advised that the LPA apply only local funds to the acquisition of any remnant parcels that may be later sold. After the WisDOT statewide review appraiser approves the offering price, the offering price shall then be reviewed and approved by the LPA. Upon final approval, the LPA is eligible to initiate negotiations with the affected property owner. The initiation of negotiations is the point in time when the offering price letter and a copy of the appraisal are provided to the property owner. See [49 CFR 24.102\(d\)](#) and discussion beginning at Chapter 6.0 - Negotiation Process.



Caution! Prior to formal initiation of negotiations, LPA must refrain from all discussions with property owner regarding compensation or value of the project's impacts to the owner's property.

CHAPTER 5.0 - NOMINAL PAYMENT PARCELS (\$25,000 or less)

In certain instances, when the estimate of the value of the damage to a parcel is low, the FHWA has granted a limited departure from the standard appraisal process described above. This is commonly referred to as the nominal payment process or known as waiver valuation process under federal regulations. The nominal process allows for a waiver of the appraisal and can be used for those parcels that meet the following criteria:

- Parcel damages valued at \$25,000 or less (reference the REPM for more information).
- Appraisal problem is non-complex.
- Land value can be easily established from size and type categories in Data Project Book.
- No damage to improvements.
- Minor severance damages to owner's remaining land can easily be explained up to \$2,000.
- Minor economically justified costs to cure can be included.
- Site improvements, such as landscaping, fencing, etc. can be included.

To assist in evaluating damages to parcels eligible to be acquired using the nominal payment process, reference the Nominal Payment Parcel Report (RE1889 – READS template or lpa1889 – paper from LP RE website) and the following discussion. Also, see Nominal Payment Parcel – Waiver of Appraisal Recommendation and Approval (RE1897 – READS template or lpa1897 – paper from LP RE website).

5.1 ESTABLISHING FAIR MARKET VALUE

The Project Data Book and Sales Study are mechanisms used to establish the market rates for the various types of property required by the project. The land values for the various categories of land being examined are determined using the sales comparison approach. The unit values derived is based on unit prices for vacant land of the category of land being studied, for example: commercial, agricultural or residential. These unit values are then used to compute the value of damages to the landowner's property. The damages to land are one of the components of damage that are documented on the Nominal Payment Parcel Report (NPPR). The total damages for each parcel are the sum of all the items of damage found on the NPPR, and this total becomes the basis for the offer of just compensation to the owner. The importance of a thorough and well-documented Project Data Book or Sales Study cannot be over emphasized. For additional details, reference the WisDOT REPM: Chapter 2 - Appraisal. When seeking to establish land values for the types of properties upon which the project will have an impact, sales chosen for comparison to the project parcels should meet the following:

- Comparable sales will be most current available within past several years.
- Selected sales will be near project.
- Selected sales will have similar characteristics to project parcels.

Once a representative sample of comparable sales has been assembled for each category of property encountered on the project, the appraiser must determine unit values for each type of property to be acquired. For each type of property, the ranges in values of the selected comparable sales should allow for a determination of value without further analysis or adjustment. Where the comparables include mixed-use properties, allocation of the uses into their component parts may help tighten the value ranges. The appraiser must conclude an individual unit value for each category of property encountered on the project. These

conclusions of value will serve as the basis for the nominal payment. The appraiser must also include a location map in the sales study showing where all selected comparable sales can be found. LPA must keep the Project Data Book, Sales Study, and comparable sales used to determine the individual unit value for each category in their project file.



Caution! Assessed value may NOT be used to determine fair market value. Assessor's knowledge of the market and ability to find recent sales may be helpful to the LPA to document fair market value; however, assessed values cannot be used as the basis.

5.2 NOMINAL PAYMENT PARCEL REPORT

Once land values are determined, these values are applied to the acquisition areas found on the Schedule of Lands and Interests Required on the right of way plat. These figures, along with any other items of damage encountered on any project parcel are then compiled and recorded on the NPPR (RE1889 – READS template or lpa1889 – paper from LP RE website). The calculated amounts for each parcel represent the amount of damage the project will cause to each of the project parcels. It is these amounts that become the “nominal” offers of compensation to the individual property owners. The Project Data Book and the NPPR must be approved prior to commencing negotiations. Contact the LPREPM once the Project Data Book and the NPPR have been completed. NOTE: The LPREPM has the discretion to allow approval of both to be done by the LPA when there are no state or federal funds in the right of way.

5.3 PROJECT DATA BOOK/SALES STUDY AND NOMINAL REPORT APPROVAL

Because the Project Data Book/Sales Study and the NPPR serve as the basis upon which the offers of just compensation to the property owner are determined, when state and/or federal funds are used in the right of way acquisition process, the Project Data Book/Sales Study must be approved by a WisDOT review appraiser. Similarly, when state and/or federal funds are used in the right of way acquisition, the LPREPM must approve the NPPR prior to the LPA commencing negotiations with the property owners.

5.4 MINIMUM PARCEL VALUES

The LPREPM and the LPA acting together can establish a minimum value on a per parcel basis of up to \$500 for fee and easement acquisitions. Project files must be documented explaining the basis for establishing the minimum parcel payment.

5.5 PREPARING NOMINAL PARCEL FILE

Once the Project Data Book, Nominal Payment Parcel Report, and the offering price have all been approved, the LPA must prepare a parcel file. Each nominal parcel file must include all the following:

- Copy of approved Nominal Payment Parcel Report.
- Copy of Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval.
- Cover letter.
- Negotiation Diary.
- Photographs of the land and items being acquired.

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- IRS Form W-9 for parcels \$600 and over.
- Statement to Construction Engineer.

If contact with the owner is made by mail, the offer to purchase letter is recommended. READS contains form letters that may be used.

5.6 EXEMPTION FROM “SEPARATION OF FUNCTION” REQUIREMENT

Unlike the standard appraisal process for properties with damages exceeding \$10,000, in the nominal payment process, the same agent who prepared the Project Data Book and parcel estimates is permitted to present the offers to the property owners. See Chapter 3.1.2 Negotiation Requirements in the REPM for on damages between \$10,001 and \$25,000 and up. Additionally, see the discussion at Section 6.1 Brochure Requirement mandating delivery of the [Rights of Landowners Under Wisconsin Eminent Domain Law](#) brochure prior to the initiation of negotiations.



Caution! If negotiations on the nominal parcel fail, the appraisal of the parcel done by any fee appraiser must be done by a Wisconsin licensed or certified appraiser.

5.7 SUBSEQUENT CHANGES TO NOMINAL OFFERING PRICE

Once the offer is made to the property owner, any change in price agreed upon between the agent and owner should be made with an ink pen on the Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897 – READS template or lpa1897 – paper from LP RE website) and should be initialed by both the owner and the agent. These changes must be approved by the LPA when there are no state and/or federal funds in the right of way. All adjustments must be justified in the Negotiation Diary (in READS diary or lpa2058 – paper from LP RE website). Any increases from the approved nominal amount must be re-approved by the LPREPM if there are state and/or federal funds used in the right of way. Any increases to nominal parcels once appraised must be approved under Administrative Revision (RE1592 – READS template or lpa1592 – paper from LP RE website).



Caution! Nominal process is up to \$25,000. No exceptions!

The LPA is responsible for maintaining project consistency. Therefore, it is recommended that you do not change the land value unless it is well supported by new sales data and documented in the Project Data Book.

For the owner to receive the benefit of a full explanation of the offer and appraisal report, it is preferable to present the offer in person. The negotiator should take the Project Data Book along as a reference to support their explanation. In most cases, owners will sign on the first call. If not, the Nominal Payment – Waiver of Appraisal Recommendation and Approval should be left with the owner for review. Although less desirable, if negotiations are to be done by mail, the comparable sales from the Project Data Book used to establish the offer should be included with the correspondence with the written explanation of how the offer was determined.

The owner's right to receive an appraisal of the damages to the property must be explained. If the owner chooses, the owner may waive his/her right to the appraisal. No matter what, no

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coercion or coercive tactics may ever be used to obtain an owner's signature! If at any time the owner requests an appraisal, or if at the second negotiation visit, no agreement with the property owner is reached, so long as the negotiator is either a qualified member of the LPA staff, or a licensed or certified fee appraiser, the negotiator/appraiser may ask the owner to accompany the negotiator/appraiser on an appraisal inspection and a Short Format Appraisal should be prepared. If, for some reason, the appraisal problem is determined to be complex, the management for the LPA should be notified so arrangements can be made to complete an appraisal.

CHAPTER 6.0 - NEGOTIATION & RELOCATION PROCESS

6.1 BROCHURE REQUIREMENT

Before making the approved money offer to the property owner, the LPA must provide the owner with the brochure entitled, the [Rights of Landowners Under Wisconsin Eminent Domain Law](#), provided online by the Wisconsin Department of Administration/Energy Office. The date the brochure is delivered to the property owner should always be indicated in the Negotiation Diary. See Section 6.2 Negotiation Diary. Contact the LPREPM for more information.

When relocation assistance is involved, the displacee must also be given the brochure entitled, [Wisconsin Relocation Rights Residential](#) or [Wisconsin Relocation Rights for Business, Farm and Nonprofit Organizations](#) (both also linked from Appendix), also provided online by the Wisconsin Department of Administration/Energy Office. Contact the LPREPM for more information.

NOTE: Where eminent domain is prohibited, a statement explaining that it will not be used on the project must be included in the accompanying introduction letter. The eminent domain brochure DOES NOT need to be sent out in this instance. Contact your LPREPM for additional guidance. See section 6.3.5 Condemnation Limitations for more information.

6.2 NEGOTIATION DIARY

The LPA negotiator is required to maintain a Negotiation Diary (in READS parcel diary or lpa2058 – paper on LP RE website), which must include the date of delivery for the brochure entitled, the Rights of Landowners Under Wisconsin Eminent Domain Law. All diary entries should be entered in the appropriate parcel log found in READS. All other entries must be sufficient to adequately describe the entire story of the negotiations. Entries should indicate such things as: persons present during any discussions; the nature of any information given to the property owner; discussions of any price; and, should document all concerns expressed by the property owner. As a matter of practice, it is important to summarize each discussion of importance and to record the summary promptly after meeting with the property owner since important aspects of the discussion may be forgotten or inadvertently overlooked. NOTE: Each entry must clearly indicate (by signature or initials) which negotiator(s) made the contact. Also, see Section 6.1 Brochure Requirement. Upon conclusion of the negotiations, the negotiator is required to sign the Negotiation Diary, confirming completeness and that the transaction is closed. Any counter-offers proposed by the owner and any justification for settlement above the initial offer should also be fully documented in the Negotiation Diary. Contact your LPREPM for additional guidance.

6.3 NEGOTIATION PROCEDURES

Once the property owner has received the brochure, the Rights of Landowners Under Wisconsin Eminent Domain Law, the LPA is required to discuss the following with the property owners, where applicable:

- Acquisition policies and procedures (if eminent domain is prohibited on the project or a portion of the project this must be explained, preferably in person).

- Terms of the offer to purchase, including discussing the property or interests required as well as basis on which offer of just compensation is made.
- If full clear title will not be obtained, discuss the risks and obtain the property owner's acknowledgement. See section 6.3.4 Clear Title for details.
- If relocation assistance is involved, offer relocation services as per the WisDOT REPM: Chapter 5 -Relocation. See additional discussion in Section 6.8 IRS Requirements.

6.3.1 Prohibited Conduct During Negotiations

According to Section 301 of the Uniform Act as implemented by [49 CFR 24.102\(h\)](#), the LPA may not use any technique or take any action, other than the condemnation process itself, which in any way coerces a property owner into selling or donating the property or property interests the LPA needs to build its project. The FHWA as well as WisDOT are charged with the duty of monitoring LPA activities to ensure against coercive actions.

Examples of actions considered to be illegally coercive include: levying assessments against only selected property owners who refuse to donate the needed property or property interest; or, levying or threatening to levy a special assessment on a land owner who rejects an offer of compensation for the needed property or property interest. In addition, the following actions are considered prohibited coercive actions:

- Requesting affected property owners waive their appeal rights;
- Requesting affected property owners waive their relocation benefits;
- Advancing of the time of condemnation; and,
- Deferring negotiations, condemnation, or depositing of funds with the court;



Caution! Any coercive actions or false statements made by an employee or representative of the LPA, directly or indirectly intimidating, threatening, or coercing any person to induce an agreement on the price to be paid for the property may result in the loss of state or federal funds for the project. This may also result in other serious legal consequences, including fines or imprisonment. See [s. 32.29, Wis. Stats.](#)

6.3.2 Initiation of Negotiations

The initiation of negotiations is the day on which the written offer to purchase, including the allocated amount of just compensation, is delivered to the property owner. If the offer is made in person, the initiation of negotiations is the day on which the written offer of just compensation is presented to the owner. If the offer is mailed, it is the date of the mailing as postmarked. At the initiation of negotiations, the property owner must be given a copy of:

- Unless already provided, copies of all required brochures.
- All appraisals made of the property.
- Legal description of the real property that identifies and describes interests to be acquired.
- Map (plat) showing all property affected by project and title sheet listing property owners.
- Offering price letter.



Caution! LPA must offer to acquire all uneconomic remnants as defined in Section 4.4 Offering Price Approval Process.

6.3.3 Offering Price Letter

The offering price letter must include the following, when applicable:

- Total compensation being offered to property owner for damages to property.
- Any alternate offers that include remaining lands considered uneconomic remnants. Reference [s. 32.05\(3m\), Wis. Stats.](#)
- Description of buildings and other improvements including fixtures, considered to be part of the real property for which offer is made.
- List of any improvements such as fixtures not owned by someone other than owner of the real property (i.e., tenant owned improvements).
- Offering price must be allocated between the land, improvements, or other interests lost by owner because of project and any damages to remaining property retained by owner (severance damages).
- Statement regarding tax proration.
- Statement that determination of just compensation:
 1. Is based on appraised fair market value of property.
 2. Disregards any decrease or increase in fair market value caused by the project for which property is being acquired.

6.3.4 Clear Title

When accepting state or federal funds to be used for ANY aspect of a transportation project (real estate, design, construction, etc.), the LPA commits to following all state and federal requirements. One such requirement is that adequate real property interests are acquired. In 23 CFR 710.305(b) Adequacy of real property interest, the provision states that property acquired for the project must be adequate for construction, operation, and maintenance, as well as for the protection of the facility and the traveling public and clear title is required.

To secure clear title on a parcel acquisition where the taking is only a portion of the subject property, WisDOT's policy is to obtain a partial release of mortgage (or lien release) on all acquisitions, except for temporary limited easements (TLE). The policy applies regardless of the complexity or dollar amount. Obtaining clear title benefits not only the property owner, but also protects the resulting highway facility and the traveling public.

There may be times when securing a partial release of mortgage is not viable because either the mortgage company (or other lien holder) will not cooperate; the fees to obtain a release are cost prohibitive; or, the time to get the partial release of mortgage does not meet the project schedule. When obtaining a partial release is not practical, a jurisdictional offer (JO) is the preferred alternative. The negotiating agent must follow the appropriate steps needed to acquire the property via the eminent domain process (refer to Chapter 9 of this manual for instructions).

The sponsor may also wish to obtain subordination agreements from all lien holders.

WARNING TO MUNICIPALITY: Securing clear title to lands encumbered by mortgages or liens protects the highway in two ways. First, if a land owner/borrower falls behind on their mortgage payments, the lender may commence a mortgage foreclosure action, which, if the arrearage is not timely cured, may lead to the sale of the property at sheriff's sale. Any portion of the property previously conveyed to the project sponsor (LPA) for highway purposes would be "cut off" during the subsequent sheriff's sale, leaving the sheriff sale purchaser with unencumbered title to the whole property. The consequence to the highway facility, is that the LPA's conveyance gets nullified, by operation of law, as though it never occurred.

Failing to secure mortgage or lien releases (or subordinations) creates the unwelcome circumstance where the lender can enforce its legal right to bring an action for possession, by declaring a breach of the mortgage's "due-on-sale; due on transfer" clause. When the landowner sells or conveys a portion of the land secured by a mortgage without first obtaining the lender's consent, the conveyance permits the lender to accelerate the borrower's debt and bring a foreclosure action. As described earlier, a successful foreclosure action leaves the sheriff sale purchaser in possession of the property, free and clear of any earlier conveyance to the LPA. In either scenario, the LPA's interest in the highway is threatened, and the highway itself is left subject to the superior legal rights of others.

IMPORTANT:

1. The LPA should be sure to have the matter of clear title as an agenda item for the start-up meeting. The LPA should either have obtained a copy of the titles for the proposed parcels from the designers or order copies themselves. The title search should not be more than six months old and should go back at least 60 years.
2. The LPA should notify any potential negotiation consultants that obtaining partial releases of mortgages, subordination agreements, or required condemnation should be considered when bidding on its project(s).

****The following process applies only when NO state or federal funds are in real estate acquisition.**

6.3.4.1 Risk Assessment

When the project acquisition is nominal (\$25,000 and under) and otherwise considered minor/insignificant and not complex, the LPA may choose to acquire the property without all the encumbrances on the property being alleviated. This, however, is considered contrary to WisDOT policy. The LPA will risk having to re-acquire the parcel if the mortgage company becomes aware that a portion of the property owner's land was sold without its consent. The LPA must be willing to risk delaying the project until all such matters are resolved.

If the LPA opts not to alleviate all encumbrances on a property being acquired, a project and parcel risk assessment must be conducted.

- Project assessment
 - Document why a partial release of mortgage on all or some of the parcels will not be realized. For example, program or construction needs or time constraints. This information must be saved in the project file.
- Parcel assessment (for each parcel where a mortgage encumbrance will not be cleared must also be assessed).
 - Document factors such as: land type, fair market value, property acreage, total acquisition amount, acquisition type, and damages; use Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (Ipa1897).
 - Examine the title and mortgage information during the assessment to ensure that the property owner is in good standing and not in jeopardy of foreclosure and document this.
 - Document a statement explaining why a partial release of mortgage will not be obtained (for example, difficulty in processing a lien release of the encumbrance due to time, cost, effort or experience with the lien holder/financial institution).
 - Documentation must be included in each parcel file.

WisDOT will NOT sign a Cert. 1 if the project and parcel files do not contain proof that an assessment was completed for each parcel where a partial release was not obtained. The project and parcel(s) assessments should be included in the Cert. 1 documentation to be reviewed by the LPREPM upon seeking Cert. 1 status.

NOTE: The LPA should be prepared to provide WisDOT with assessment documentation for review. If WisDOT determines the documentation or assessments are inadequate or insufficient, the LPA will be subject to corrective actions and possible funding revocation.

6.3.4.2 Property Owner Acknowledgement

At the initiation of negotiations, the LPA/negotiator is required to provide every property owner a Property Owner Partial Release of Mortgage Acknowledgement form (Ipa1549-paper from LP RE website) when a partial release of mortgage is not going to be obtained; and, the LPA/negotiator must note in the parcel diary when and how this document was issued to the property owner(s). Best practice is to always meet with property owner(s) in person, but this is especially important when explaining something as complex as clear title, partial release of mortgages, and mortgage terms. The Property Owner Partial Release of Mortgage Acknowledgement form (Ipa1549-paper from LP RE website) will help in explaining a partial release of mortgage, why it's important, and the risks is to the property owner if a partial release is not obtained. The signed document MUST be included in the parcel file and is a required document for Cert. 1 sign-off.

- **Property Owner Partial Release of Mortgage Acknowledgement**
 - The Property Owner Partial Release of Mortgage Acknowledgement form (Ipa1549 – paper from LP RE website) is intended to assist the LPA/negotiator

explain clear title, a partial release of mortgage and the risks to the property owner if a partial release is not obtained. It also includes a property owner partial release of mortgage acknowledgement page for the owner(s) to sign.

- If the property owner(s) disagrees with the LPA not contacting the mortgage company, the LPA or its consultant is required to pursue contact with the mortgage company to ascertain if one is necessary (property owner may also decide to contact the mortgage company). This contact with the mortgage company and the results of that contact must be documented. If the LPA determines costs to obtain a partial release of mortgage are excessive (based upon the LPA's established limit) or project timelines won't allow for obtaining a partial release of mortgage, a partial release does not need to be obtained. Instead, the LPA must acquire the property via the condemnation process and all parties of interest will be named on the check and submitted to the clerk of courts for disbursement.



Caution! If state or federal funds are utilized in the project's real estate acquisition, ALL property titles must be cleared. There will be NO exceptions granted. The LPA is reimbursed for real estate costs; therefore, the only option is to obtain partial release of mortgages when required. If this is not possible, the LPA must acquire R/W via the condemnation process.



Caution! The LPA should notify any potential negotiation consultants that obtaining partial releases of mortgages, subordination agreements, or JOs should be considered when bidding on projects.

6.3.5 Condemnation Limitations

September 21, 2017, Assembly Bill 64 was passed. It now incorporates limitations to condemnation authority:

“Property may not be acquired by condemnation to establish or extend a recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).”

This law is referenced in [Section 32.015, Wis. Stats.](#) It is also referenced in the treatment of sections 23.09 (2) (d) (intro.), 27.01 (2) (a), 27.019 (10), 27.05 (3), 27.065 (1) (a), 27.08 (2) (b) and (c), 32.015, 32.51 (1) (intro.), 59.52 (6) (a) (as it relates to condemnation for recreational trails, bicycle ways, bicycle lanes, and pedestrian ways), 60.782 (2) (d), 61.34 (3) (b), 62.22 (1) (b), 62.23 (17) (a) (intro.) and (am), 85.09 (2) (a), and 990.01 (2) of the statutes.

WisDOT's view of the new real estate restrictions is that condemnation CAN be used for sidewalk projects (new and replacement) and for replacement of existing bike paths (lanes and trails). **Condemnation cannot be used for any other NEW pedestrian way or NEW bike paths (lanes and trails).** This also includes the EXTENDING of new trails, and bike or pedestrian ways. Note, this is WisDOT's current interpretation. It is subject to change. LPAs should have its legal staff review this law to determine how it affects its transportation project.

Consideration of how this law may affect the project is paramount. Any questions or concerns should be address early on in the project preferably during design. **DO NOT WAIT** until acquisition is underway to troubleshoot if the project falls into this category.

NOTE: If condemnation is prohibited on a project, most policies, procedures, and documentation are required, however some may not be. The LPA should work with the LPREPM to ensure proper procedures are followed and documentation obtained.

6.4 PROPERTY OWNER APPRAISALS

[Section 32.05\(2\)\(b\), Wis. Stats.](#), allows a property owner to obtain an independent appraisal of the damages caused by the project. This owner's appraisal expenses shall be paid for, so long as: the owner's appraiser is qualified; the appraisal report is received within 60 days of delivery; the report adheres to the LPA Appraisal Guidelines & Agreement; and, the fee charged for the owner's appraisal is reasonable. When a property owner exercises the option of obtaining their own appraisal report and provides a copy of the report to the condemning agency, before reimbursing the owner for the entire cost of their appraisal report, the condemning agency should consider:

- Whether fee, in whole or in part, for producing the appraisal report is reasonable and justified; and,
- Whether the merits of the appraisal report warrant a change to the LPA's offering price.



Caution! The owner's appraisal must be received within 60 days of the presentation of the offer and appraisal to the property owner to be considered for reimbursement. No exceptions! For guidance, see sub-section 6.4.1 Calculating 60-Day Deadline.

When considering the merits of the owner's appraisal, during the negotiation process the LPA may decide that owner's appraisal:

- Is inadequate and that offer will not be changed;
- Has certain information which warrants an adjustment to the original offering price; or,
- Has significant new evidence that warrants either an administrative change to the LPA's offering price, or a second appraisal.

Any time the LPA elects to update its offer of compensation to the property owner, the LPA must issue a revised offering price letter to the property owner.

6.4.1 Calculating 60-Day Deadline

[Section 32.05\(2\)\(b\), Wis. Stats.](#), provides the property owner 60 days to submit its appraisal report to the LPA to have the LPA reimburse the reasonable cost of preparing a qualified appraisal report. The 60-day deadline for reimbursement begins upon delivery of the LPA's appraisal to the property owner. Receipt of the appraisal is considered to have been accomplished either upon the date of personal delivery or three (3) days following the date of postmark. When delivered in person, the 60-day timeframe starts on the day of personal delivery. If the 60th day falls on a Saturday, Sunday or Legal Holiday the time for receiving the owner's appraisal report is then pushed to the next regular business day. It is the LPA's responsibility to calculate the 60th day and to notify the owner of the deadline.

6.4.2 Reimbursement of Owner Appraisal Costs

In addition to the foregoing requirements, for the LPA to be eligible for state or federal reimbursement of property owner appraisal fees, the LPA is required to certify that the owner's appraisal report meets certain minimum standards. Use FHWA Reimbursement - Owner's Appraisal Fee (Ipa1001 paper from LP RE website) form. To be eligible for state or federal reimbursement, each owner appraisal expense must be accompanied by one completed certification.

6.5 WRITTEN STATEMENT OF COMMITMENTS

Any commitments between the property owner and the negotiator made during negotiations must be in writing and provided to the required personnel in charge of carrying out the commitments, usually the project or construction engineer. All commitments must be noted in the Negotiation Diary. If there are no commitments the form should indicate "none." In all cases, even when no commitments are made, the property owner must sign this form. This will aid the project or construction engineer should an owner later try to claim that commitments were made when, in fact, there were none. Finally, any owner concerns expressed during negotiations should be listed on the form for informational purposes.

Use of the Statement to the Construction Engineer (RE1528 – READS template or Ipa1528 – paper from LP RE website) is required. This form simplifies the process of ensuring that the owner, construction engineer, design engineer, and the LPA all receive a copy of any commitments made to a property owner by the negotiator in the field. The LPA must retain documentation in the parcel file of any commitments made with the property owner.



Caution! Any commitments on state/federal funded projects are subject to WisDOT approval.

6.6 CONFLICT OF INTEREST/SEPARATION OF FUNCTION

Federal law requires that the LPA's appraiser, review appraiser and the negotiator for the parcel be separate individuals. This requirement is referred to as the "separation of function." However, there is an exception for nominal parcels. See Section 5.6 Exemption from "Separation of Function" Requirement.

6.7 RELOCATION OVERSIGHT POLICY

WisDOT relocation oversight is required when there is state or federal funding used in a project (design, real estate, construction, etc.). WisDOT relocation oversight will be charged to the project number. The amount of time required for oversight is dependent on the quality of documentation submitted by the LPA staff or consultant and the complexity of the relocation. Detailed relocation policy, process, and procedures are found in [Chapter 5 of the REPM](#) and should be referenced often. The following coordination is required for all LPA projects with relocation:

- Add verbiage to the SMA (if not already included) noting that WisDOT relocation oversight will be utilized.

- Organize a Relocation Start-up Meeting (include LPA staff, LPA relocation specialist/consultant, LPPM, designer, LPREPM, etc.)
- Coordinate & plan a monthly Relocation Update Meeting (include LPA staff, LPA relocation specialist/consultant, LPPM, and LPREPM)
- LPA relocation specialist to submit Acquisition Stage Relocation Plan (see 6.7.4 for details)
- Submit RHP calculations for review and recommended approval

6.7.1 Written Notice and Informational Requirements

All displaced person(s) or business must receive the applicable relocation brochure when the relocation assistance package is presented. These brochures entitled, Wisconsin Relocation Rights Residential or Wisconsin Relocation Rights for Business, Farm and Nonprofit Organizations and are explained in this manual under Section 6.1 Brochure Requirement.

Written notices and documentation that are required to be provided and signed (if applicable) for each eligible displaced person or business with original copies kept in the paper file and scanned into the READS relocation log include the following:

- Relocation Assistance Package Receipt (RE1036 – READS template)
- Certification of Legal Residency form (RE1031 – READS template)
- Notice of relocation eligibility letter
- Assurance of Occupancy
- Approved computation, appropriate to the relocation: For Residential: Replacement Housing Payment – Owner (RE1943 – READS template); Replacement Housing Payment – Tenant (RE1948 – READS template), For Non-Residential; Business Replacement Payment Computation – Owner (RE1609 – READS template); Business Replacement Payment Computation – Tenant (unnumbered)
- Relocation Payment Summary/Residential (RE1679R – READS template); Relocation Payments Summary Non-Residential (RE1679B – READS template)
- Relocation Claim forms (RE1527 – READS template)
- 90day notice to vacate
- Lease agreement to be provided the date of closing
- Vacancy Notice (RE1783 – READS template)

Other notices and documents to be provided to the displaced person(s) or business include, but are not limited to:

- Business Replacement Payment – Reasonable Project Costs Worksheet and Administrative Cost Log
- Reestablishment Expenses Worksheet
- Searching Expense Record

6.7.2 Relocation Diary

The LPA relocation specialist is required to maintain a Relocation Assistance Diary. Diary entries must be produced through READS. As a matter of practice, it is important to

summarize each discussion of importance and to record the summary promptly after meeting with the property owner since important aspects of the discussion may be forgotten or inadvertently overlooked. Upon conclusion of the relocation, the LPA relocation specialist is required to sign the Relocation Diary, confirming completeness and that the transaction is closed.

The Relocation Assistance Diary is key to the relocation process. The Relocation Assistance Diary is a separate diary from the negotiation diary. Diary documentation must be detailed, complete with entries dated and persons identified for entries specific to the relocation of the displaced person(s) or business. Each diary should include:

- Dates of all correspondence with displaced person(s) and where applicable, their representative.
- Dates of notification of availability of all relocation payments and services.
- Dates when all documents, forms, letters, etc., were delivered.
- Description and substance of contacts with all displaced person(s) present whether by phone, email or in person.
- Description of displaced person(s) response to services or benefits offered.

NOTE: Upon completion of a relocation, the diary is generated in READS, signed by the LPA relocation specialist and uploaded to the Relocation Log. An original copy is kept in the agency's file.

6.7.3 Relocation Procedures

Negotiators and LPA relocation specialists shall coordinate their efforts to attempt to initiate negotiations and provide relocation eligibility information during the same meeting with the landowner. If this is not able to be done, the LPA relocation specialist shall provide relocation eligibility as soon as possible, but within seven to ten calendar days.

Regardless of where federal or state dollars are used for a project, WisDOT must approve the Acquisition Stage Relocation Plan, computations and claims on a project. Reminder, this LPA Manual is a sub-section of the larger Real Estate Program Manual (REPM). Refer to section 5.2.2 of the REPM for more details on procedures regarding the Acquisition Stage Relocation Plan.

As soon as the LPA relocation specialist notes that the relocation is found to be difficult due to the nature of that specific relocation and the displaced person(s), it is necessary for the LPA relocation specialist to inform and begin all necessary coordination between the LPA and WisDOT to ensure the most positive outcome for the relocation. In order to be able to address specific relocation needs, computations and claims in a timely manner, complete cooperation by the LPA relocation specialist, LPA and WisDOT are needed to avoid confusion and to expedite the time frame in which documents submitted are approved. Refer to 5.4 and 5.5 of the REPM for more details on procedures with Residential Relocation Procedures and sub-sections 5.6, 5.7 and 5.8 of the REPM for more details on procedures regarding Business Relocation Procedures and moves.

6.7.3.1. Approval Process

When state or federal dollars are used on a project and any relocation is required, all relocation computations and claims require review and approval by WisDOT.

- Project assessment
- All claims and computations must be submitted by the LPA relocation specialist directly to the WisDOT BTS-RE. The BTS Statewide Relocation Facilitator will review the claim.
- If everything appears to be in order, BTS will send to the LPA relocation specialist to submit to the LPA for approval.
- All claims and computations submitted to WisDOT BTS-RE for payment are based on procedures in the REPM. Attach a memo clearly explaining the submittal, and the basis of how the displaced person or business is eligible for the item(s) claimed.
- All computations and claims requiring approvals at either the regional or WisDOT BTS-RE level must be in READS prior to submittal.

6.7.3.2 Claims

Prior to submittal of the claim to WisDOT BTS-RE, the LPA relocation specialist shall review entire claim for:

- Correct math
- Documents that supports amount claimed
- Missing documentation
- Non-executed leases
- Paid invoices or paid receipts, rather than proposals as documentation
- Spreadsheets not accompanied by original documentation
- Unsigned tax returns
- Memo describing the displaced person's eligibility under a specific provision

The LPA relocation specialist will complete the Relocation Computation/Claim Checklist form (unnumbered) to ensure the appropriate information is included with the claim. (The form is found under [LPA RE Forms](#) on the LPA RE website.) WisDOT will notify the LPA relocation specialist when additional information is needed to support a claim and in turn the LPA relocation specialist will promptly notify the displaced person of the necessary additional support.

The LPA will not require a person to relinquish a right to future claims as a condition of payment. No portion of a relocation payment may be withheld to make payment to any other creditor. The LPA may deduct unpaid rent from relocation move payments.

Payment of claims shall be delivered by the LPA relocation specialist with a receipt signed by the displaced person(s) or business acknowledging receipt for payment of any claim. For payments remitted by mail, these must be sent by certified mail with receipt.

Refer to 5.10.5 of the REPM for more details on relocation claim submittal procedures.

6.7.4 Acquisition Stage Relocation Plan

The Department of Administration (DOA) has delegated approval authority for plans with any state or federal funding in a project to the BTS-RE statewide relocation facilitator. The relocation plan is only to be submitted to DOA for approval if the project is 100% locally funded. Regardless of where federal or state dollars are used for a project, the LPA relocation specialist submits the Acquisition Stage Relocation Plan to BTS-RE for review and approval. The relocation plan must be approved prior to any offers being made on the project.

NOTE: Refer to 5.2.2 of the REPM for more details of the procedures and content of the Acquisition Stage Relocation Plan.

6.7.5 Documentation Requirements

6.7.5.1 READS

READS is to be utilized as the official relocation file by the LPA relocation specialist, LPA and WisDOT. The LPA relocation specialist shall ensure that all critical dates are filled out in the appropriate fields in the Relocation tab of READS. All tabs under the Relocation tab must be used and all Relocation specific documents uploaded to the Relocation Log, as well as diary entries made in the Relocation Diary tab under the Relocation tab in READS.

A copy of the Relocation Assistance Package, any and all letters provided to the displaced person(s) or business, signed copies of all original notices (including any revised notices for changes to the date of vacancy); signed lease agreements; and, signed vacancy inspections must be uploaded to the Relocation Log of READS.

All necessary letters, notices and forms must be documented in the relocation diary tab in READS with a copy of the signed diary kept in the physical relocation case file. The READS Relocation Parcel Checklist (unnumbered) is completed by the LPA relocation specialist certifying that everything has been appropriately uploaded to the relocation log. (The form is found under [LPA RE Forms](#) on the LPA RE website.) A signed copy of the checklist is then uploaded into the relocation log and the original is kept in the physical relocation case file.

6.7.5.2 Relocation Assistance Package

The eligibility for relocation assistance begins on the date of the initiation of negotiations. If a displaced owner or tenant vacates prior to the initiation of negotiations, it may result in the loss of relocation benefits. Any move deemed necessary prior to the initiation of negotiations due to non-decent, safe, and sanitary conditions will require a Notice of Intent to Acquire.

The appraiser, acquisition agent, and LPA relocation specialist must coordinate their work to assure that their individual functions provide the necessary information needed to calculate an accurate and up-to-date relocation computation. A displaced owner or tenant replacement payment computations must be approved by WisDOT prior to the initiation of negotiations. The preference is that the LPA relocation specialist meet with

the property owner to present the relocation benefits at the initiation of negotiations with the acquisition agent, in person. If this is not possible (e.g. displaced person doesn't want to meet or refuses to meet which requires documentation in the diary and a receipt signed by the displaced person verifying that they elected not to meet in person to discuss relocation eligibilities) the relocation information must be presented to the owner or tenant being displaced within seven (7) days of the initiation of negotiations.

At the meeting where the LPA relocation specialist presents the relocation assistance package to the displaced person, the LPA relocation specialist must have the displaced person sign the Certification of Legal Residency form prior to disbursement of the remainder of the package.

If the displaced person will not sign the form or certifies that they are not legal residents of the United States of America, the LPA relocation specialist must inform the displaced person that they are not eligible for relocation services and terminate disbursement of the remainder of the relocation assistance package. The LPA relocation specialist shall document this meeting in the Relocation Diary in READS.

The relocation assistance package shall include the following:

- Relocation Package Receipt
- Correct math
- Certification of Legal Residency form
- Relocation Notice of Eligibility (initiation of negotiation) letter
- Contact information (i.e., name, address, email and phone of relocations specialist)
- Claim forms.
- Approved Computations, includes comparison chart and pictures
- General Relocation Information sheets – business owner (RE1039bo – READS template); business tenant (RE1039bt – READS template); business owner - landlord (RE1039l – READS template); farm owner (RE1039fo – READS template); farm tenant (RE1039ft – READS template); residential owner (RE1039ro – READS template); and, residential tenant (RE1039rt – READS template)
- Relocation Payments Summary
- Self-addressed return envelope(s)
- Vacancy Notice (RE1783 – READS template) – to be completed by displaced person at vacation of the subject
- Wisconsin Department of Administration relocation rights information: residential, business

Upon delivery of the relocation assistance package, a copy of the delivered Relocation Notice of Eligibility Letter, and all documentation signed by the displaced person (such as the Relocation Package Receipt, Certification of Legal Residency form and Relocation Payments Summary form) must be uploaded into the Relocation Log in READS.

If applicable, the LPA relocation specialist must be advised of the date of closing of the acquisition of the subject property, and if there has been any change in the original offer to adjust the computation. The revised approved computation is to be uploaded to the

Relocation Log in READS. Refer to section 5.1.3 of REPM for more guidance regarding the delivery of the relocation assistance package.

6.7.5.3 90 Day Notice

At the initiation of negotiations, a 90-day assurance of occupancy letter must be given to the property owner or tenant when “any items” are to be moved from the property being acquired, whether compensation for such move is made by a relocation moving payment, or by compensation in the acquisition. If warranted, a 90day Notice to Vacate is issued as necessary to provide the displaced person with a specific date they are to vacate the subject, no sooner than the closing for the subject property where title of the subject is transferred. A copy of the assurance and notice is to be uploaded to the Relocation Log in READS.

6.7.5.4 Vacancy Notice

The LPA relocation specialist is personally required to conduct a vacancy inspection to verify that all personal property has been removed from the property. The visual inspection and completed Vacancy Notice (RE1783 – READS template) must be included in the relocation file. A copy of the notice signed by the displaced person(s) and LPA relocation specialist is to be uploaded to the Relocation Log in READS.

6.7.5.5 Case Report & READS Checklist

An Individual Relocation Case Report is required to be completed by the LPA relocation specialist when the displaced person(s) has been relocated and all applicable payments have been made. This report is generated through READS and submitted to the BTS-RE statewide facilitator upon completion through READS. At this time the LPA relocation specialist shall check the file and READS for completeness, uploading the completed READS Relocation Parcel Checklist to the relocation log. The LPA relocation specialist notifies the LPREPM upon completion of the relocation.

6.7.6 Personal Property Move Only

For simple moving costs, the acquisition agent, whether LPA staff or fee consultant, may submit information pertaining to these move costs as long as they are approved to do so under the Acquisition Capability Statement and are on the LPA list of approved relocation specialists.

Even though there may not be any displaced residence or business on a project, there still may be moving payments for improvements, fixtures, or personal property not being acquired. These payments may be handled as a relocation moving payment. (5.4.10 REPM)

6.7.7 Claim Denial and Appeal

The LPA shall promptly notify a claimant in writing of a determination of claim denial with this information included in the letter:

- Basis for determination

- How person may modify or further document the claim
- Procedures to file an appeal

Refer to 5.10.6 and 5.10.7 of the REPM for more details on relocation complaints and appeals. The REPM forms page has a Relocation Appeal Process (RE1035 – READS template) handout that can be utilized as a template, however appeals should be directed to the LPA displacing agency and not WisDOT.

6.8 IRS REQUIREMENTS

If the compensation for the acquisition is \$600.00 or over, the agent must advise the property owner that Internal Revenue Service regulations require that the transaction be reported to the IRS using IRS Form 1099-S, Proceeds from Real Estate Transactions. The agent must also advise the property owner that for the LPA to comply with IRS regulations, the property owner must complete IRS Form W-9, Request for Taxpayer Identification Number and Certification, and inform the owner of the obligation to fulfill these IRS requirements. The property owner faces potential civil and criminal penalties for failing to comply with this requirement. The agent should attempt to have Form W-9 completed at the first negotiation meeting. If negotiations are by mail, appropriate written notification must be made. In the event a property owner refuses to provide the required W-9 information, the negotiation agent must document the attempt and the property owner's refusal in the official parcel file. Refer to 5.0.4 for relocation payments not considered as income pursuant to s.32.19 or s.32.195, Wis. Stats., except for reasonable net rental losses under s.32.195(6), Wis. Stats.

6.9 INCREASES TO ORIGINAL OFFERING PRICE

To ensure compliance with the term "highest written offer" as intended by [s. 32.28\(2\) and \(3\), Wis. Stats.](#), all increases in the compensation offered to the owner must be presented in writing by means of a revised offering price letter. These written offers must contain a statement allocating the damages into the component parts (i.e., land, improvements, severance, etc.). When local funding is used to acquire the right of way, any change in the original offering price would be approved by the LPA. However, WisDOT must approve any change to the original offering price when state and/or federal funds are used to acquire the right of way.


Also, where condemnation of a parcel becomes necessary, the Jurisdictional Offer (RE1786 – READS template or lpa1786 - paper from LP RE website) presented to the property owner must reflect the same dollar amount of compensation as any approved increase to the original offering price. See Chapter 9.0 - Condemnation Process.

The LPA may choose to revise the offer using the administrative revision process (see sub-section 6.9.1 Administrative Revisions).

The Agreement for Purchase and Sale of Real Estate (RE1618 – READS template or lpa1618 – paper from LP RE website) is recommended as the format for any agreement the LPA reaches with the property owner.

6.9.1 Administrative Revisions

An Administrative Revision is used when the offer is changed for any reason other than a change in the size of the taking, or intent of the taking (change from PLE to Fee). Administrative revisions may include such items as uncertainty of compensability or damage, substantial difference in appraisal opinions, minor changes in market conditions, cost to cures missed in original offer, consideration of litigation costs, etc. Requires LPREPM approval when state and/or federal funds are used in right of way. The agency must submit the rationale for the increase in writing on the Administrative Revision (RE1592 – READS template or lpa1592 – paper from LP RE website). This form requires a written analysis of each appraisal's "before and after" values, an allocation of damages, and recommended revised values for anticipated damages.

 **Caution! Although the LPA may approve any administrative revision that it considers reasonable, prudent and in the public interest, there is no guarantee that the FHWA or state will fully reimburse the LPA if there is a disagreement with any of the justifications used for the increase. Therefore, it is important to seek advice from the LPREPM when significant administrative revision amounts are being considered.**

6.10 TEMPORARY RIGHT OF ENTRY EASEMENT

WisDOT no longer accepts temporary right of entry to clear right of way for certification. Any exceptions must be pre-approved by FHWA. This action should be the exception, not the rule! A Temporary Right of Entry Easement (RE1561 – READS template or lpa1561 – paper from LP RE website) is a temporary permit to enter lands for construction purposes. This is used only when negotiations to acquire a permanent right are already underway. A temporary right of entry may be executed when the property owner is willing to allow construction to proceed prior to the actual date of acquisition. Since a temporary right of entry easement acquires only the right to enter upon the land for construction, the required interest must subsequently be acquired as quickly as possible by conveyance or Award of Damage. The LPA must explain, as a part of its right of way certification, the exceptional circumstances surrounding the need to use a temporary right of entry easement and commit to the date by which the acquisition will be completed.

CHAPTER 7.0 - DONATIONS AND TEMPORARY INTERESTS

7.1 DONATIONS

An owner may donate all or part of the required real property interest. The donation cannot, however, be formally accepted until the owner has been given the brochure entitled, the Rights of Landowners Under Wisconsin Eminent Domain Law, and has been fully advised of the right to receive just compensation based upon an appraisal. For the donation to be effective, the owner must sign a Donation - Waiver of Appraisal Recommendation and Approval (RE1896 – READS template or lpa1896 – paper from LP RE website). The procedure for closing the transaction is explained later in this manual. See Chapter 8.0 - Closing Procedures.

Prior to accepting any donation, all adverse environmental considerations (hazardous materials) must be addressed. Any donation of property shall be subject to all guidelines concerning valuation of the parcel, including sales studies, and shall be subject to the \$1,000 value limit for determining whether it is necessary to file a Relocation Order (RE1708 – READS template or lpa1708 – paper from LP RE website). See Section 3.2 Relocation Order.

NOTE: For purposes of the owner's right to appeal the amount of compensation paid by the LPA, Wisconsin law requires that the amount to be shown on the conveyance document. This requirement presents a dilemma for the acquiring agency seeking to accept a donation of property or property interest. Consult your agency's legal counsel for guidance when determining the value that should be written on the conveyance (i.e., one dollar and other valuable considerations, mutual benefits, etc.). Contact the MC for instruction on documenting the donation. For additional details, also reference the WisDOT REPM: Chapter 3 - Acquisition/Section 3.4 Donations, Temporary Interests and Right of Entry Easements.

7.1.1 Valuation of Exchanges for Construction Features

To avoid the possibility of having state and/or federal funding in a project jeopardized, the rules governing donations of property interests are stringent and the process to be used is mandatory. Before using this process, contact the LPREPM. The acquiring agency may accept a property owner's offer to donate property or a portion thereof in exchange for construction features or services rendered that will benefit the property owner. However, from a project funding standpoint, to be eligible to receive credit from federal dollars for the value of the donated property against the LPAs or state's share, for example, 80 percent federal funding and 20 percent state or local funding, the value of the donated property and the value of the feature or service provided to the landowner in exchange must be established as fair market value by an appraisal done by a qualified appraiser. The amount of any credit for purposes of matching funds will be the net difference between the value of the property donated and the benefit received by the property owner for the features or services provided. Also, see sub-section 6.3.1 Prohibited Conduct During Negotiations regarding prohibitive conduct during negotiations and coercive tactics when considering property by donation.

7.2 TEMPORARY LIMITED EASEMENTS

A Temporary Limited Easement (TLE) (RE1577 – READS template or lpa1577 – paper from LP RE website) is limited in purpose and time, and will normally terminate upon completion of

construction. Work to be done within a TLE may range from minor sloping and drainage work to minor blending and driveway reconstruction work. Payment, if any, for a TLE will vary by the nature of the impact upon the property. Consequently, where the work to be done is only minor aesthetic blending or reconstruction, there may be no payment. In this case, the words “one dollar and other good and valuable consideration” should be entered on the compensation line of the TLE conveyance document. Where the impact is more substantial, payment can normally be based upon an estimate of fair market rental for the land required. For guidance and examples, also reference the WisDOT REPM: Chapter 2 -Appraisal/subject 2.8.9.3 Temporary Limited Easements (TLE). Any affected landscaping or other site improvements located within the TLE work area should be included as items of compensation in the payment to the owner. A separate fencing claim may also be considered if the existing fencing is clearly identified and the need for the fencing can be demonstrated. Payment should not be considered for items that are to be replaced under the construction contract, such as lawn, asphalt, or concrete drives. Per Chapter 32 of the Wisconsin Statutes, all instruments of conveyance are to be recorded in the Register of Deeds office in the county where the project is located. If the LPA elects not to record the TLE, the property owner’s right of appeal technically goes on indefinitely. Also, if the conveyance is not recorded, the LPA may not be protected against the rights of a subsequent owner if the property is sold prior to construction. For assistance in evaluating these risks, contact the LPREPM.

7.3 CONSTRUCTION PERMIT

A Construction Permit Recommendation and Approval (RE1732 – READS template or lpa1732 – paper from LP RE website) is not appropriate in most cases. It may only be used to facilitate a request from the property owner to temporarily enter upon private property to perform certain construction activities that help make the property compatible to the roadway such as:

- Blending back-slopes behind curb and gutter
- Completing work requested by the owner
- Matching lawns to sidewalks or slopes
- Providing a temporary work area
- Reinstallation of a driveway entrance
- Replacement of driveway surfacing
- Temporary staging of construction materials or equipment

A construction permit may be obtained during the negotiation or the construction phase of the project. Generally, a construction permit should only be obtained when damages to the property on a before or after basis are minimal or none. Restoration of the property must be near 100% of its former utility when construction is complete. The affected property disruption should be of relatively short duration and should not significantly interfere with the overall use and enjoyment of the property. Since these permits are for the property owner’s benefit and not required to construct the project, most do not require compensation. Construction permits must be obtained with the cooperation and agreement of the owner only. The LPA cannot condemn the interests identified in a construction permit. If condemnation is required, the LPA must use another form of conveyance such as the Temporary Limited Easement discussed in Section 7.2. Construction permits are not typically recorded and terminate upon the acceptance and completion of construction. The limits of the permitted work area should be shown on the permit and on the construction plan. These are usually used when there is no fee simple acquisition from a property.

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Caution! Construction Permits identified during the design or acquisition stages must be shown on right of way certification.

CHAPTER 8.0 - CLOSING PROCEDURES

For the LPA to secure the permanent property interests necessary to certify a clear right of way, the LPA must adhere to the following procedures.

8.1 ACQUIRING PROPERTY INTEREST

8.1.1 Conveyance Types

Construction Permit (CP): Used to secure a temporary right to use land for a limited period. Construction permits cannot be used when condemning property. See Section 7.3 Construction Permits.

Highway Easement: A right granted or taken, for the construction, maintenance and operation of a highway. The grantor retains fee ownership in this case. Ordinarily in the case of a public thoroughfare, the abutting landholders are assumed to own the fee to the centerline of the right of way. Highway easements are recommended in situations where it may be necessary to acquire contaminated parcels.

Permanent Limited Easement (PLE): Used to acquire permanent interest in the land for a limited purpose such as maintenance of drainage facilities, etc.

Temporary Limited Easement (TLE): Used to acquire a temporary right or interest for a limited period. Always used when condemnation of temporary interest is necessary. See Section 7.2 Temporary Limited Easements (TLEs).

Warranty Deed: A deed conveying to the grantee title to the property free and clear of all encumbrances, except those specifically set forth in the document.

8.1.2 Conveyances of Permanent Property Interests

When agreement has been reached, the owner(s) must sign whichever of the following types of conveyance documents is applicable: (1) Warranty Deed (RE1560 – READS template or lpa1560 – paper from LP RE website); (2) Highway Easement (RE1565 – READS template or lpa1565 – paper from LP RE website).); or, (3) Permanent Limited Easement (PLE) (RE 1552 – READS template or lpa1552 – paper from LP RE website).). The following must appear on the conveyance document utilized:

- Names of all legal owners of record
- Name of acquiring agency
- Amount of compensation
- Names of all other parties of interest
- Explanation of owner's six-month appeal right.
- Description of parcel being acquired.
- Homestead properties must be signed by both husband and wife.
- Name of person drafting document.
- Tax parcel number.
- Notary block, verifying all signatures.



Caution! When preparing the conveyance, if applicable, insert the appropriate clause concerning hazardous waste. Contact the LPREPM for details.

8.1.3 Use of Approved Forms

LPAs must use only approved current forms, including conveyance documents. All forms and letters are found in READS (however in a few cases there are LPA specific forms found on the WisDOT Local Program RE website). Any modifications to the authorized and approved forms or use of non-WisDOT forms requires advanced approval by the LPREPM. Failure to comply with this requirement carries the risk of a loss of state and/or federal funding. For help in completing any forms, contact the LPREPM.

8.1.4 Closing Statement Requirement

When the value of the transaction exceeds \$600, a Closing Statement is required. Proceeds of the sale must be reported to the Internal Revenue Service by using form 1099-S, Proceeds from Real Estate Transactions. See Section 6.9 Increases to Original Offering Price.

8.1.5 Notice of Appeal

[Section 32.05\(2a\), Wis. Stats.](#), provides that all parties of interest in the parcel have six months to appeal for greater compensation, even though the owner voluntarily signed the conveyance. Notice of the right to appeal is required to be included on the face of the conveyance document. Therefore, the following statements must appear on the conveyance:

"An appeal from the amount of compensation may be made within six months after the date of recording of this conveyance as set forth in [s. 32.05\(9\) to \(12\)](#) and [Chapters 808 and 809](#) for appeals from an award under [s. 32.05\(7\) Wis. Stats.](#) For any such appeal, the amount of compensation stated on conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation."

"Other persons having an interest of record in the property: _____." All persons having an interest of record in the property must be named on the conveyance and must be served with the notice of appeal rights either by personal service or by certified mail.

8.1.6 Recording Conveyance

All conveyances of a permanent interest in real estate must be recorded at the Register of Deeds office in the county where the property is located. For purposes of the property owner's right to appeal for greater compensation, Wisconsin law says that the amount of compensation stated on the conveyance shall be treated as the award. **NOTE:** For purposes of recording the conveyance, payment must be made to the property owner prior to the recording, or the Award of Damages (RE1559 – READS template or lpa1559 – paper from LP RE website) if condemnation is required.

CHAPTER 9.0 - CONDEMNATION PROCESS

In the event the LPA is unsuccessful in acquiring the necessary property interests through agreement with the owner, it may become necessary to invoke the power of eminent domain. The exercise of this power should be undertaken with great care to ensure that the property owner's rights are fully considered and protected under the law. Because the condemnation process is extremely inflexible, before starting the process, contact the LPREPM for guidance.

9.1 REVISED OFFER LETTER REQUIREMENT

Once the LPA determines that agreement with the property owner is not likely, the LPA must ensure that any amount of compensation offered above the initial offering price be provided to the property owner by revising the offering price letter. See Section 6.9 Increases to Original Offering Price.



Caution! If the just compensation award has been revised upward, a letter must be sent to owners informing them of the revised offering price amount prior to mailing the Jurisdictional Offer.

9.2 JURISDICTIONAL OFFER AND 60 DAY APPRAISAL DEADLINE

Wisconsin law allows the property owner 60 days after receipt of both the LPAs offer of compensation and any appraisals of the owner's property prepared by the LPA, to obtain their own appraisal by a qualified appraiser. If the LPA is unable to negotiate a satisfactory settlement during that 60-day period, at the end of the period, the LPA shall prepare a Jurisdiction Officer (RE1786 – READS template or lpa1786 – paper from LP RE website). The LPA should send the Jurisdictional Offer by certified mail to all owners of record, mortgagees and all other parties of interest. The Jurisdictional Offer is a formal written offer that provides a final 20 days to negotiate a settlement. The LPAs negotiator must make at least one negotiation contact during this period for the LPAs actions to constitute "good faith" negotiations. Also, see Section 6.4 Property Owner Appraisals.

9.3 NOTICE OF LIS PENDENS

A Notice of Lis Pendens (RE1547 – READS template or lpa1547 – paper from LP RE website) must be filed in the Register of Deeds office within 14 days of the date of mailing (or date of publication) of the Jurisdictional Offer. The Notice of Lis Pendens shall include a copy of the Jurisdictional Offer and a legal description of the lands to be acquired.

9.4 AWARD OF DAMAGE

If the owner either does not accept the Jurisdictional Offer or the owner affirmatively rejects the Jurisdictional Offer within the 20-day period provided law, an Award of Damages (RE 1559 – READS template or lpa1559 – paper from LP RE website) should be prepared and served to the owner either in person or by sending it to the owner via certified mail. Once service of the Award of Damages has been completed, and after payment to the owner of the compensation stated on the Award of Damages, it must then be recorded at the Register of Deeds office in the county where the property is located. The date the Award of Damages is recorded is the date

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that the described property interest vests in the LPA. Subject to the owner's right to challenge the necessity of the taking and the owner's two (2) year right to challenge the amount of compensation, the interests needed are now fully acquired for purposes of certifying the right of way. See Chapter 11.0 - Certification and Records.

CHAPTER 10.0 - MISCELLANEOUS PROCEDURES

10.1 OUTDOOR ADVERTISING

The state of Wisconsin has a procedure for relocation of signs. This process must be managed on a case-by-case basis. For information, contact LPREPM. In general, the procedure is outlined below:

- Show and list all signs on plat.
- List sign owner's name.
- If sign needs to be relocated, enclose Relocation Rights brochure.
- Negotiate a settlement.
- Refer to Chapter 10 Outdoor Advertising Signs of the REPM

This process is revised periodically. To ensure the LPA has the most recent sign schedule information, contact the LPREPM.

10.2 PROPERTY MANAGEMENT

The use of state and federal funds in the acquisition of right of way requires that surplus/excess property, including buildings, cannot be sold without state and/or federal approval. Revenue generated from the sale of excess property will be divided in the same ratio as was contributed by the FHWA or the state at the time when the property was originally acquired. For ease of liquidation, it is strongly advised that the LPA apply only local funds to the acquisition of any remnant parcels. For additional details, also reference the WisDOT REPM: Chapter 6 - Property Management.

10.3 SALES OF SURPLUS/EXCESS PROPERTY

When only local funding is used to acquire right of way, municipalities should use their own procedures for selling the surplus/excess property, but if state or federal funds are used in any part of the right of way acquisition, the LPA will follow these basic processes in selling surplus/excess property:

- Surplus/excess property must be appraised before any sale can occur (type of land or characteristics of property being sold will determine appraisal complexity).
- Provide details on how property is to be sold, considering abutting owners, public sale, etc.
- Submit request to sell along with the appraisal to LPREPM for review. The LPREPM will work with regional property management staff for approval.



Caution! Any property acquired with the use of state and/or federal money that is subsequently sold as surplus will require reimbursement at the current fair market value and at the rate of participation at which it was acquired.

10.4 BUILDING REMOVAL

All buildings, structures or other improvements purchased may be offered for sale or razed, whichever is in the public interest. If any of these items are to be sold, it is good public policy to offer those items to the former owner at a reasonable salvage value prior to offering them to the

general public. Both parties must sign any agreement whereby the owner retains improvements. NOTE: WisDOT demolition contract forms are recommended but not required if no state or federal funds are used within the right of way.

It is recommended that any improvements sold require the buyer to provide a performance deposit, and state that said improvement reverts, and again becomes the property of the condemning agency if not removed by the date stated in the sales agreement. In such event that a buyer fails to perform, the performance deposit will then be applied to the razing or project cost.

Razing costs are a reimbursable item when using state and/or federal dollars. If the razing is done by the municipality, or under separate razing contract, and if request for reimbursement for razing costs are through the real estate process, they would be calculated at the same rate of participation as the real estate costs. If reimbursement for razing is applied to construction costs, or razing is in the construction contract, reimbursement should be addressed in the construction portion of the state/municipal agreement. Any proceeds from the sale of improvements would be applied towards the project costs when calculating the reimbursement. For information regarding hazardous materials inspections and removal, prior to demolition, contact the LPREPM.

10.5 FEDERAL LAND TRANSFER

Where you are acquiring lands held by any federal agency, contact the LPREPM.

10.6 SPECIAL ASSESSMENTS

Transportation construction projects using federal funds under a local project agreement, except sidewalks, are likely general improvements that primarily benefit the public at large and for which special assessments cannot be levied under [s. 66.0703, Wis. Stats.](#) Municipalities desiring to obtain the required local project funding through special assessments levied against parcels should seek advice of legal counsel. See Hildebrand v. Menasha, 2011 WI App 83.

CHAPTER 11.0 - CERTIFICATION AND RECORDS

11.1 RIGHT OF WAY CERTIFICATION

All rights of way and/or interests for a construction contract letting are to be fully acquired prior to the PS&E submittal. When seeking to certify to WisDOT that the property interests have been successfully acquired, the LPA must use the Certification of Local Public Agency Right of Way Acquisition (Ipa3028 - paper from LP RE website). This form is used to document that all the following have been properly acquired:

- Deeds and easements.
- Construction permits.
- Utilities for project.
- Encroachments removed or accounted for.
- Relocation completed.

In addition to the Certification of Local Public Agency Right of Way Acquisition (RE3028 – READS template or Ipa3028 – paper from LP RE website), the LPA shall submit the following to the LPREPM 28 days prior to PS&E Submittal (per FDM 19-1-1):

- Appraisal waivers (RE1897 or RE1896 – READS template or Ipa1897 or Ipa1896 – paper from LP RE website), if applicable, and documentation supporting the just compensation
- Negotiation Diaries (RE2058 or Ipa1897 or Ipa2058 – paper from LP RE website)
- Recorded conveyance documents
- Statements to Construction Engineer (RE1528 or Ipa1897 or Ipa1528 – paper from LP RE website)

The negotiator should package these documents (final version w/ signatures) into one log entry per parcel into the PROJECT log of READS. The log entry should be titled “Parcel ## docs”. The LPREPM will not review documents for certification if not packaged.

11.2 RECORDS MANAGEMENT

11.2.1 Project Files and Parcel Folder Contents

The project file shall, in the order listed below, include (where applicable) copies of the following:

- State/Municipal Project Agreement(s)
- Relocation Plan
- Design Study Report approval letter
- R/W plat and/or construction plan sheets
- Relocation Order and Cost Estimate
- Acquisition Capability Statement
- Consultant contract copies (if applicable)
- Project Data Book, Sales Study, or comparable sale information
- Nominal Payment Parcel Report
- Certification of LPA Right of Way Acquisition (Ipa3028 – paper from LP RE website)

NOTE: All above listed documents should be uploaded into READS project log. However, the official documentation should remain with the LPA per its record keeping practices.

Each individual parcel folder within the project shall, in the order listed below, include (where applicable) copies of the following essential items:

- Title report
- Appraisal(s), signed Waiver of Appraisal (RE1897 or lpa1897 – paper from LP RE website) or signed Donation Waiver of Appraisal (RE1896 or lpa1896 – paper from LP RE website)
- Offering Price Report Approval
- Offering Price Letter (dated)
- Negotiation Diary (RE2058 or lpa2058 – paper from LP RE website)
- Agreement for Purchase and Sale of Real Estate (RE1895 or RE1618 or lpa1895 or lpa1618 – paper from LP RE website)
- Administrative Revision (RE1592 or lpa1592 – paper from LP RE website) with supporting justification and approval
- Statement to Construction Engineer (RE1528 or lpa1528 – paper from LP RE website), including commitments made to property owners
- Closing Statement
- Check copies and/or evidence of payment (w/letter and notes made in Negotiation Diary)
- Recorded conveyances and mortgage releases or Risk Assessments with property owner acknowledgement documents (unnumbered – paper from LP RE website)
- Condemnation documents - Jurisdictional Offer (RE1786 or lpa1786 – paper from LP RE website), Notice of Lis Pendens (lpaRE1547), Award of Damages (RE1559 or lpa1559 – paper from LP RE website)
- Relocation related documents
- W-9 and 1099s
- Litigation case summary and related documentation, showing approvals

NOTE: Before a project is closed, the project file and each individual parcel folder included within should be reviewed for completeness by the negotiator/LPA.

11.2.2 Records Retention

The LPA shall maintain adequate records of its acquisition and displacement activities as detailed above to demonstrate compliance with all the requirements of this manual. These records are to be maintained at a centralized location in the LPAs office. Normally, all pertinent project records must be retained by the LPA for five years. If construction of the project is delayed or litigation is involved, the records would have to be maintained for five years or more after the project is closed. Questions should be directed to LPREPM.

11.3 COMPLIANCE

WisDOT, and FHWA have the right to conduct a review of your files at any time to ensure compliance with state and federal policy and procedures.

CHAPTER 12.0 - REIMBURSEMENT OF STATE/FEDERAL AID

12.1 GENERAL PROCEDURES FOR OBTAINING REIMBURSEMENT

The State/Municipal Agreement (SMA) defines the percent of participation for reimbursement. It also defines the type as either direct reimbursement or work credits. Either type requires approval by the LPREPM. Requests for reimbursement must be submitted on the Right of Way Detailed Statement of Expenditures (Ipa1959 – paper from LP RE website). In addition, a variety of supporting materials need to be submitted as part of the LPA's packet for reimbursement. The materials need to be organized so that each enclosed document is appropriately labeled/numbered to correspond with the associated line item and attached in the same sequential order as entered on the Right of Way Detailed Statement of Expenditures form. All requests for reimbursement must be accompanied by the applicable documentation as identified below, and follow this procedure.

The procedure to request eligible state or federal reimbursement is:

1. Prepare an original Right of Way Detailed Statement of Expenditures (Ipa1959- paper only from LP RE website) to include evidence of an original signature by the LPA's authorized official.
2. Submit the completed signed original Right of Way Detailed Statement of Expenditures to the LPREPM for review. Supporting documentation (listed below) must be uploaded to the project log in READS. Upon uploading into READS, the LPA/consultant should notify LPREPM that documentation is ready for review. LPA/consultant may also use the optional LPA Reimbursement Checklist (Ipa1002 – paper only from LP RE website) as a tool to ensure that all supporting documentation is complete as required.
3. Documentation to be uploaded into READS project log and titled "Reimbursement Project Docs":
 - SMA
 - Any contracts for consultant services, consultant invoices, and any checks showing a payment was made.
 - Nominal Payment Parcel Report (RE1889 or Ipa1889 – paper from LP RE website), approved.
4. Documents associated with each parcel to be uploaded into READS project log and titled "Reimbursement Parcel # Docs":
 - Negotiation Diary (RE2058 or Ipa2058 – paper from LP RE website).
 - Statement to Construction Engineer (RE1528 or Ipa1528 – paper from LP RE website).
 - Recorded conveyances, unrecorded temporary conveyances are acceptable.
 - Nominal Payment Parcel Waiver of Appraisal Recommendation and Approval (RE1897 or Ipa1897 – paper from LP RE website), signed by owners and LPA.
 - Offering Price Report and Submittal (RE 1894 or Ipa1894 – paper from LP RE website), signed and approved.
 - Alternate Offers to Purchase Offering Price for Required Acquisition (RE1975 or Ipa1975 – paper from LP RE website), signed and approved.

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- Owner appraisal expenses with certification and approval. FHWA Reimbursement - Owner's Appraisal Fee (Ipa1001- paper from LP RE website) is required if federal funds are used in R/W.
 - Administrative Revisions (RE1592 or Ipa1592 – paper from LP RE website).
 - Disposition of Real Estate Taxes (RE1616 or Ipa1616 – paper from LP RE website).
 - Closing Statements, signed.
 - Property owner compensation checks and other disbursement checks as shown on Closing Statement.
 - Legal counsel's Litigation Report and Case Summary (RE1651 or Ipa1651 – paper from LP RE website) of condemnation commission hearings and trial in circuit court and written rational by LPAs legal counsel for any settlements made during the litigation process.
 - Relocation computations and claims, signed and approved, and including the following where applicable (also see below: *NOTE: Business replacement payments...):
 - Net rental loss.
 - Costs of re-installing existing fencing.
 - Realignment of personal property.
 - Plans rendered unusable.
 - Invoices for incidental payments, pursuant [s. 32.195, Wis. Stats.](#), including (but not limited to):
 - Recording fees.
 - Utility bills.
 - Charges for mortgage releases.
 - Penalties or costs of mortgage prepayment penalties.
 - Checks with supporting documentation for any payments made for which the LPA is seeking reimbursement.
 - Documentation for municipality delivery time, and miscellaneous costs.
 - Rent receipts, bills of sale for salvage items, or any other incomes received to be applied as credits toward the reimbursement total.
5. LPREPM certifies that all required documents with approvals, as needed, are in the WisDOT regional file (LPA's must keep copies of all materials in their files as well). LPREPM approves final amount for reimbursement. Amounts approved for reimbursement will be processed by WisDOT BTS-RE/Finance (Bureau of Technical Services-Real Estate [central office]).

* NOTE: Business replacement payments under Wisconsin law, pursuant to [s. 32.19 \(4m\), Wis. Stats.](#), are not eligible for federal reimbursement under federal regulations. Consequently, contact the LPREPM for assistance in determining business replacement payment reimbursement eligibility.

The LPREPM serves as the LPA's resource to ensure financial participation and compliance with state and federal law. For questions about the general procedures for obtaining reimbursement, contact either the LPREPM.

12.2 REIMBURSEMENT FOR LITIGATION EXPENSES

In certain cases, expenses incurred by the owner must be reimbursed by the LPA. These expenses include reasonable “disbursements and expenses,” reasonable attorney, appraisal and engineering fees incurred by the owner because of a condemnation proceeding, where:

- Condemnation commission award or jury verdict exceeds the Jurisdictional Offer or highest written offer prior to the Jurisdictional Offer by at least \$700 and at least 15 percent.
- Condemnation proceeding is abandoned by the LPA.
- Court having jurisdiction renders a judgment in favor of owner in an inverse condemnation proceeding, or LPA effects a settlement of such proceeding.
- Final judgment of the court is that agency cannot acquire the real property by condemnation.

Only costs eligible for state and/or federal participation may be claimed. For assistance in determining eligibility for reimbursement, contact the LPREPM. The LPREPM, serve as the LPAs resource for guidance and expertise to ensure financial participation and compliance with state and federal law. For any legal settlement to qualify for reimbursement, including condemnation commission awards and awards of the circuit court, the Litigation Report and Case Summary (RE1651 or lpa1651 – paper from LP RE website) must receive written approval from WisDOT management through the LPREPM.

12.3 REIMBURSEMENT FOR INCIDENTAL EXPENSES

[Section 32.195, Wis. Stats.](#), provides that owners of the real property shall be reimbursed for all reasonable expenses incurred for:

- Recording fees, net rental loss, realignment of personal property, charges for mortgage releases, costs of re-fencing, and plans rendered unusable and similar expenses incidental to conveying property to the agency.
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage encumbering the real property.
- Prorated real estate taxes attributable to the period after the agency obtains ownership of the parcel. See Disposition of Real Estate Taxes (RE1616 or lpa1616 – paper from LP RE website) for guidance in computing the prorated share of taxes.

CONCLUSION

The LP RE Manual is intended to assist LPA's in planning and funding right of way projects on local roads. This manual is a compilation of information from many sources and is not intended to be a comprehensive document. It is impractical, if not impossible, to address or anticipate all possible situations. Frequent references are made to the [Wisconsin Statutes](#), the Real Estate Program Manual ([REPM](#)), and to the Facilities Development Manual ([FDM](#)). The official version of this manual is the electronic publication and may reflect changed or updated policies. WisDOT is not responsible to provide notice to users when modifications are made. Access to this manual for non-WisDOT staff is through [WisDOT's website](#). LPA's should follow the minimum procedures outlined in this manual to secure the approvals needed to proceed with right of way acquisition on state or federal aid projects. It is the responsibility of the LPA to ensure that all state and federal procedures and laws are followed. The applicable state and federal law will govern any conflicts found with the language of this manual. WisDOT invites any questions or comments. Contact the Division of Transportation System Development (DTSD), regional LPREPM.