



2.5 - WAIVER VALUATIONS

2.5.1 - General Policy

49 CFR Part 24.102(c)(2) (i thru ii) – An appraisal is not required if:

- i. The owner is donating the property and releases the agency from its obligation to appraise the property; or
- ii. The agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.
 - A. When an appraisal is determined to be unnecessary, the agency shall prepare a waiver valuation.
 - B. The person performing the waiver valuation must have sufficient understanding of the local RE market to be qualified to make the waiver valuation.
 - C. The federal agency funding the project may approve exceeding the \$10,000 threshold, up to a maximum of \$25,000, if the agency acquiring the real property offers the property owner the option of having the agency appraise the property. If the property owner elects to have the agency appraise the property, the agency shall obtain an appraisal and not use procedures described in this paragraph. (see REPM/Subsection 2.0.1.2)

A waiver valuation, which is not an appraisal, is allowed in the following circumstances:

- If the acquisition involves a nominal parcel as defined in REPM/Subsection 2.1.3. Nominal parcels involve partial acquisitions from non-complex parent tracts that have a readily identifiable highest and best use, and no issues associated with the determination of the larger parcel. The value of the land contained within the larger parcel can be readily determined from comparable sales available in the area of the proposed project. Total damages resulting from the proposed taking and subsequent construction project have an estimated value of \$25,000 or less. The proposed acquisition involves land and minor acquisitions of site improvements. The total damages may include minor cost to cure severance damages to site improvements that are readily identifiable and easily calculated.
- Owner is donating property and releases WisDOT from its obligation to appraise the property. While an appraisal is not always necessary, and there is no actual prerequisite that an appraisal be made prior to accepting a donation, it is a federal requirement to inform the property owner(s) of the estimated value of their donation prior to acceptance. An appraisal may be determined to be unnecessary if the valuation problem is uncomplicated and may otherwise be considered a nominal parcel by WisDOT (e.g., \$25,000 or less). WisDOT's practice is to accept a signed waiver of appraisal from the property owner only when the anticipated total value of the proposed acquisition is estimated at \$25,000 or less and there is no severance to the remaining property (except fencing); or, because the owner is donating the property and chooses to release the department from its obligation to appraise the property. In such cases, WisDOT shall prepare a Donation - Waiver of Appraisal Recommendation and Approval form (RE1896). For donations with more than a \$25,000 estimated value, or that may otherwise be considered complex, perform an appraisal to establish the donation value.

Note: For details about donations, see REPM/Section 3.4.1.

A waiver valuation is not considered to be an appraisal as defined by the Uniform Act and 49 CFR, Part 24. Therefore, appraisal performance requirements or standards regardless of their source are not required for waiver valuations. Owner accompaniment is not required, and an appraisal review is not necessary. The waiver valuation needs to be performed by a person with an understanding of the local real estate market and how real estate is valued. A reasonable basis for the established value must be documented. The availability of consistent market data is necessary to support the value estimates that are required. Adequate time and effort must be spent analyzing each parcel for such items as change of grade, driveways and access impacts, landscaping, fencing, proximity and other factors that would affect the property values and eligibility for the waiver process. A department official must approve an amount believed to establish just compensation for the acquisition.

The values of fencing and other minor acquisitions of site improvements are allowed to be included in a waiver valuation because of the relative ease of estimating their contributory value to the subject property. As stated above the waiver valuation may also include minor cost to cure severance damages to site improvements that are readily identifiable and easily calculated. The existence of any other severance damages will require the use of an appraisal. The entire process of preparing the waiver valuations should be completed by a single RE specialist. Typically, the same specialist who prepares the expanded sales study (see REPM/Subsection 2.3.7) and the waiver valuations will then make the offers and prepare any appraisals that may be required when a waiver of appraisal is not obtained. It is permissible to use an expanded sales study prepared by other staff or a contract appraiser; however, the person preparing the waiver valuations and any required follow-up appraisals should be familiar with the sales contained within the study. To ensure accuracy and consistent valuations a qualified real estate agent with at least a working knowledge of sales study preparation and non-complex appraising should be utilized for this process. In the event that an appraisal is required, the same agent can serve as the negotiator, only if appropriate and as long as the total compensation remains under \$10,000.

Payment consistency - Regional staff are responsible for entering all data into READS. Regional project managers and the RE supervisors are responsible for ensuring consistent payments throughout each project for closely monitoring the waiver of appraisal process for compliance.

2.5.2 - Identification of Waiver Valuations

Parcels identified for this procedure must meet the following criteria:

- Acquisition may include minor easily curable severance damage
- Acquisition may include minor site improvements
- Can be appraised with the short format summary appraisal if a waiver cannot be obtained
- Non-complex, \$25,000 or less in value.

Regions should make an effort to identify nominal parcels, eligible to be valued utilizing the waiver valuation, early and indicate the parcel number in column A and type (nominal parcel) in column C of the individual parcel tab of the project scoping spreadsheet. This will notify the BTS-RE not to prepare folders for these nominal parcels. The final, signed Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval form (RE1897) is kept in the

region's files. Parcel folders can be created later if the waiver turns into an appraisal because an owner is unwilling to sign the waiver, or it is determined later that the appraisal problem is actually complex.

2.5.3 - Preparation of the Expanded Sales Study

Waiver valuations are typically based on values in an expanded sales study. A discussion of the reporting standards and guidance for the preparation of an expanded sales study are presented in REPM/Subsection 2.3.7. The comparable sales utilized to establish the value ranges for the different property types identified in the expanded sales study should not be subjected to significant analysis or adjustment. The expanded sales study must be adequate to be able to conclude individual unit values for each category that serves as the basis for calculating the nominal parcel payment.

Waiver of an expanded sales study - the sales study requirement can be waived by BTS-RE, either a manager or a BTS-RE review appraiser, for projects where all the payments fall under the amount that has been established as the minimum payment in the region or for the project. Regions have discretion in establishing the amounts for minimum offers (see REPM/Subsection 2.1.9). While the expanded sales study may be waived, the regions will still be responsible for documenting within the file containing the Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval form (RE1897), the appropriate justification for the unit value(s) chosen for the waiver valuation(s), whether it is comparable land sale raw data or listing data.

2.5.4 - Preparation of Waiver Valuations

1. The review appraiser and the appropriate regional representative will scope the project to identify parcels for potential waivers based on complexity.
2. Identify any impacted site improvements and whether they will be acquired, or will potentially experience curable severance damages, and identify in the Appraisal Scoping Checklist tab of the Project Scoping Spreadsheet.
3. The agent/appraiser must keep notes and calculations for his or her estimated values of the site improvements acquired, any identified costs to cure, and any additional items included in the waiver, so they are available if needed to prepare an appraisal if the property owner does not waive their right to an appraisal.
4. Include at least one photo of the parcel and, one or more close-up photos of any impacted site improvements in the regional file. Make sure all items in the acquisition, or affected by it, are in the photo(s).
5. The BTS-RE review appraiser or the regional review appraiser must approve the expanded sales study prior to any payments being processed. The responsible party here will depend on the complexity of the project and can be determined in the project management conference. The responsible party will be identified on the project cost allocation screen in READS. The review appraiser should also enter a date that the expanded sales study requirement is waived. Any request to waive the expanded sales study requirement should be in writing and the reviewer can file the request and approval, if granted, in the project file.
6. A summary of all nominal parcels must be listed on Nominal Payment Parcel Report form (RE1889). Real estate management must approve report before any offers to owners.
7. The agent should fill out the Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval form (RE1897) in advance of personal contact. After the owner signs the form, if there is no change in the offer the agent can sign the approval. Regional real estate management must sign the approval if changes are made.

2.5.5 - Waiver of Appraisal Negotiations

For guidance specific to conflict of interest standards, reference 49 CFR 24.102(n)(3) and REPM/Section 3.1.2, "For any parcels having an estimated value between \$10,001 - \$25,000 and up, because of the perceived potential for increased conflict of interest concerns, an appraiser or waiver valuation preparer cannot also act as the negotiator for that parcel, except and unless the approved offering price is \$10,000 or less. ...".

For estimated values \$10,000 or less.

- The owner's rights brochure and appropriate cover letter must be given/sent to the owner(s) prior to the initiation of negotiations. The date of delivery must be noted in the Negotiation Diary form (RE2058).
- Owners must be notified of their right to have the property being acquired appraised and be agreeable to waiving that right.
- Offers should be made in person if possible. Owners should be shown the expanded sales study used to establish the price. Group meetings to explain the project to multiple property owners at one time can work well for urban projects with minor acquisitions. Owners need to be given the opportunity to meet individually with real estate staff to complete the transaction.
 - Negotiation by mail is allowed and, in some cases, it may be the most cost-effective method. If the negotiation is by mail, copies of the sales sheets from the expanded sales study used to establish the price must be included with a letter explaining the offer and acquisition process.
- The completed Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval form (RE1897) is given to the owner to sign or left with the owner if an immediate agreement is not reached.
- A Negotiation Diary form (RE2058) must be completed for each parcel. Justification for changes or increases must be documented. Changes must be made in pen on the Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval form (RE1897) and initialed by the real estate specialist and the property owner.
- Specialists should not refer to leeway or percentage increases. Under no circumstances should the owner be pressured to waive their right to an appraisal.
- It is allowable to make a second follow-up visit if the owners want to think about it or not all the owners are present. The specialist can complete the appraisal inspection at that time, so that the owner can be presented an appraisal at the next meeting. If the owner(s) concur with the offer, have them sign the deed and complete the paperwork.
- If the owner chooses not to waive the right to an appraisal or is reluctant, tell the owner that someone will return to do an inspection. If any facts were discovered at the meeting that would make the valuation problem complex, such as an unanticipated damage to the remainder, the appraiser should inform regional management and an appraisal addressing the problem should be made. The appraisal must be submitted to the project review appraiser to have an offering price established. Once an offering

price is approved, a revised offer must be approved to change the offer. If condemnation is going to be used a final offer should be considered that covers any risks to the agency.

- A deed is required to convey land interest. The agent must be a notary public to authenticate the owner's signature on the conveyance instrument. If payment is \$600 or more, the owner should be asked to complete an IRS1099 form (see current IRS instructions) so that an IRS Form W-9 can be prepared for the owner. The closing statement prepared in advance may be modified in the field if necessary.
- Any change to a previously approved amount is subject to new approval and must be made in ink on the appraisal waiver form, initialed by the owner(s), a WisDOT agent, and documented in the Negotiation Diary form (RE2058). Always inform owners that any change is subject to new approval. Changes to the waiver amount can be approved by regional real estate supervisor, as long as the resulting offer does not exceed \$25,000 in total value.
- If a property owner requests an appraisal, tell them someone will be contacting them to schedule an inspection appointment.
- A statement to the construction engineer must be completed for all waivers of appraisal. This form lists all commitments made to the property owner. If no commitments are made, the form should still be signed by the owner and say none or N/A and must still be given to the construction section with a copy to the owner and uploaded into READS.
- Regional RE staff must enter all payment data into READS.
- Payment can be requested by submitting a copy of the signed Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval form (RE1897) to the BTS- RE/Finance along with a Payment Request form (RE1630).

2.5.6 - Converting a Waiver Valuation into an Appraisal

If an agreement is not reached the agent/appraiser should ask to accompany owner on an inspection of the property to be conducted as per the instructions outlined in REPM/Section 2.2. An Appraisal Report (Short Format Summary) form (RE1005) should be prepared in accordance with the established WisDOT format (see REPM/Subsection 2.3.6).

Waivers that are converted to appraisals but are still \$10,000 or less can be reviewed by a regional reviewer. All appraisals more than \$10,000 must be reviewed by a statewide review appraiser.