MONACAN INDIAN NATION HOUSING DEPARTMENT
PO BOX 960 AMHERST, VA 24521
RENTAL HOUSING DEVELOPMENT & LAND ACQUISITIONS POLICIES & PROCEDURES

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Chapter 1
Policy Statement.

The Tribal Council of the Monacan Indian Nation- MIN, recognize that it is necessary to adopt and implement real property acquisition, land acquisition, and rental housing development policies and procedures in order to operate as a property management business. Monacan Indian Nation Housing Department (MINHD) intends these policies to be applicable to the MINHD programs developed or operated with or without funds provided through the Native American Housing and Self-Determination Act (NAHASDA).

The acquisition of real estate is an eligible activity under NAHASDA as described in section 202(2) under Development. The regulations implementing NAHASDA regarding real property acquisition are described at 24CFR Part 1000.14 that is included as an appendix (A) to this policy. The acquisition of real property for a NAHASDA assisted activity is also subject to 49CFR part 24, subpart B that is also included as an appendix (B) to this policy.

Certain acquisitions may be in the interest of the MINHD that will not meet the requirements of Federal Regulations. In those instances, non-restricted funds must be utilized.

In all cases, it shall be the policy of the MINHD to only consider purchasing real property after the following conditions have been met:

1. An unmet need has been identified through the Indian Housing Plan (IHP).

2. Funding has been identified. (NAHASDA, non-restricted, grant funds,tribal funds, other federal)

3. It is in the best interest of the MINHD.

Chapter 2
ACQUISITIONS REQUIREMENTS.

a. **General Information.** The requirements of this chapter apply to any acquisition of real property for a project utilizing NAHASDA, non-restricted, tribal funds, or other grant funds.

b. **Less-Than-Full-Fee Interest in Real Property.** In addition to acquisitions of fee simple title, the provisions of this chapter apply to:

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(1) the acquisition of fee title that is subject to retention of a life estate;

(2) a life use;

(3) acquisitions by leasing or purchasing a leasehold interest, including option(s) for extension;

(4) land held in Trust by the U.S. Government for a tribe or Indian individual;

(5) the acquisition of permanent easements;

c. **Persons Acting as Agent of the MINHD.** In some cases, the MINHD may determine that a property meets the requirements for acquisition and acts through a non-related party to acquire the identified property. This may be a developer, or licensed real estate agent. In such cases, the person is performing as the agent of the MINHD and the acquisition must be treated as a MINHD acquisition that is subject to all provisions of these policies and procedures.

Chapter 3
Basic Acquisition Policies.

a. **Expeditious Acquisition.** The MINHD shall make every effort to acquire the real property expeditiously by good faith negotiation.

b. **Notice to Owner.** As soon as a property has been identified through offer or inquiry by the MINHD, the owner or agent for the owner shall be given written notice of the MINHD's interest in acquiring the property.

If the property is located on Trust or Restricted land or involves the purchase of Trust of Restricted Land, this notice is required to go through the local Bureau of Indian Affairs (BIA) office.

c. **Appraisal and Invitation to Owner**

(1) All properties identified for acquisition shall be appraised by a qualified appraiser. If the acquisition involves the purchase of Trust or Restricted land or long-term leases on Trust or Restricted lands and related improvements, the BIA must conduct the appraisal. In all cases, the owner or his/her representative shall be given the opportunity to accompany the appraiser during the appraiser's inspection of the property, unless:

(a) The property is being donated; or

(b) The MINHD determines, after reviewing the available data, that the valuation is uncomplicated and the fair market value of the

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property does not exceed $50,000. The determination shall be based on a review by a person who is familiar with real estate values. If the owner requests an appraisal, the MINHD shall obtain an appraisal subject to paragraph c. (1).

(2) The MINHD recognizes that adequate market information necessary for balanced appraisals may not be available on the Indian Service Area) and will recognize the "replacement value approach" when it is determined that inadequate sales information exists.

(3) When acquiring commercial property and/or property with tenant-owned improvements, the MINHD should provide the appraiser with the appropriate legal guidance with respect to the classification of the land, (Trust, Restricted Fee) ownership, documents and the necessary reviews subject to various ownership possibilities in Indian Country.

d. **Establishment and Offer of Just Compensation.** Once the MINHD determines the amount which it believes is just compensation, the MINHD shall tender a written offer to the owner or in the case of restricted lands, the BIA.

e. **Summary Statement.** In addition to the written offer to purchase, the owner shall be given a written statement of the basis for the offer and shall include:

(1) A statement of the amount of the offer and the method of establishing the amount.

(2) A description and location of the real property and the interest in the property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including building equipment and fixtures) that are considered to be part of the real property for which the offer includes. Where appropriate, the statement shall identify any separately held ownership in the property, e.g., a tenant-owned improvement, easement, etc. that is not covered by the offer.

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(3) An identification of the buildings, structures, and other improvements (including building equipment and fixtures) that are part of the real property for which the offer includes. Where appropriate, the statement shall identify any separately held ownership in the property, e.g., a tenant-owned improvement, easement, etc. that is not covered by the offer.

f. **Basic Negotiations.** The MINHD shall contact the owner or the owner's representative (BIA) and discuss offer to purchase. Whenever feasible, personal face-to-face contact and discussion will take place, or an attorney may represent the MINHD in negotiations. The owner shall be given reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and may suggest modifications in the proposed terms and conditions of the purchase.

g. **Updating Offer of Just Compensation.** If the information presented by the owner, or a material change of the character or condition of the property indicates a need for a new appraisal, or if a significant delay has occurred since the time of the appraisal(s) of the property, the MINHD shall have the appraisal updated.

h. **Settlement.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed. This action requires the approval of the Tribal Council. A written justification shall accompany the request.

i. **Payment Before Taking Possession.** Before requiring the owner to surrender possession of the real property, the MINHD shall pay the agreed price to the owner, or in the case of Restricted Lands, the BIA.

j. **Fair Rental.** If the MINHD permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the MINHD on short notice, the rent shall not exceed the fair market rent for such property.

Chapter 4
Appraisals.

a. **Definition of Appraisal.** The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

b. **Standards of Appraisal.** The MINHD will recognize the Uniform Appraisal Standards or if the Tribe chooses, an alternate method of identifying and qualifying individuals familiar with the real property values on the MIN Reservation (or Indian Service Area). Each appraisal will contain at a minimum, the following items:

(1) The purpose and/or the function of the appraisal, a definition of the property being appraised and a statement of the assumptions and limiting conditions affecting the appraisal.

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(2) A description of the physical characteristics of the property, a statement of the known observed encumbrances, if any, title information, (title insurance, title status report if trust) location, zoning, present use, and an analysis of highest and best use.

(3) If applicable, an analysis of reliable approaches consistent with Indian reservation land sales. In most cases, inadequate market sales will necessitate other approaches such as cost of replacement, or rental value if information exists.

(4) A statement of the value, in the opinion of the appraiser.

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

c. Qualifications of Appraisers.

(1) The MINHD shall establish criteria for determining the minimum qualification of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. A contract (fee) appraiser making a "detailed appraisal" under a contract executed after December 31, 1992 must be certified under State law implementing Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).

(2) Usually, BIA Appraisers meet the necessary qualification and must be utilized on Trust and Restricted land appraisals.

(3) Conflict of Interest. No appraiser shall have any interest, direct or indirect, in the real property being appraised for the MINHD that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

d. Property Owner with Conflict of Interest.

(1) A conflict of interest exists whenever the owner of an interest in real property that is to be acquired by MINHD serves as an officer of the MINHD or it's designated acquiring agent or exercises any other responsible function in connection with that acquisition. The MINHD prohibits employees from using positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(2) Examples of Safeguards. Among the various measures which the MINHD could adopt to prevent the possibility of undue personal enrichment by real property owners who may be in a conflict of interest position are:

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(a) Disclosure. The MINHD may require disclosure of any potential conflict of interest to the Tribal Council, MINHD's Legal Counsel, and as otherwise may be appropriate.

(b) Review by BIA or separate Tribal agency.

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Enacted, on this day, 11 of MAY, 2020, in Amherst, Virginia.

Kenneth Branham 5-11-20

Chief Kenneth Branham Date

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APPENDIX A

24 CFR PART 1000 FINAL RULE IMPLEMENTING THE NATIVE AMERICAN HOUSING & SELF-DETERMINATION ACT OF 1996 (NAHASDA)

Sec. 1000.14 What relocation and real property acquisition policies are applicable?

The following relocation and real property acquisition policies are applicable to programs developed or operated under NAHASDA:

(a) Real Property acquisition requirements. The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B. Whenever the recipient does not have the authority to acquire the real property through condemnation, it shall:

(1) Before discussing the purchase price, inform the owner:

(i) Of the amount it believes to be the fair market value of the property. Such amount shall be based upon one or more appraisals prepared by a qualified appraiser. However, this provision does not prevent the recipient from accepting a donation or purchasing the real property at less than its fair market value.

(ii) That it will be unable to acquire the property if negotiations fail to result in an amicable agreement.

(2) Request HUD approval of the proposed acquisition price before executing a firm commitment to purchase the property if the proposed acquisition payment exceeds the fair market value. The recipient shall include with its request a copy of the appraisal(s) and a justification for the proposed acquisition payment. HUD will promptly review the proposal and inform the recipient of its approval or disapproval.

(b) Minimize displacement. Consistent with the other goals and objectives of this part, recipients shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(c) Temporary relocation. The following policies cover residential tenants and homebuyers who will not be required to move permanently but who must

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relocate temporarily for the project. Such residential tenants and homebuyers shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly housing costs (e.g., rent/utility costs).

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period;

(iii) The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs; and

(iv) The provisions of paragraph (c)(1) of this section.

(d) Relocation assistance for displaced persons. A displaced person (defined in paragraph (g) of this section) must be provided relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24.

(e) Appeals to the recipient. A person who disagrees with the recipient's determination concerning whether the person qualifies as a ``displaced person,'' or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient.

(f) Responsibility of recipient.

(1) The recipient shall certify that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The recipient shall ensure such compliance notwithstanding any third party's contractual obligation to the recipient to comply with the provisions in this section.

(2) The cost of required relocation assistance is an eligible project cost in the same manner and to the same extent as other project costs.

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However, such assistance may also be paid for with funds available to the recipient from any other source.

(3) The recipient shall maintain records in sufficient detail to demonstrate compliance with this section.

(g) Definition of displaced person.

(1) For purposes of this section, the term ``displaced person'' means any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted under this part. The term ``displaced person'' includes, but is not limited to:

(i) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the submission to HUD of an IHP that is later approved.

(ii) Any person, including a person who moves before the date described in paragraph (g)(1)(i) of this section, that the recipient determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project.

(iii) A tenant-occupant of a dwelling unit who moves from the building/complex permanently after the execution of the agreement between the recipient and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(A) The tenant-occupant's monthly rent and estimated average monthly utility costs before the agreement; or

(B) 30 percent of gross household income.

(iv) A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex, if either:

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(A) The tenant-occupant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or

(B) Other conditions of the temporary relocation are not reasonable.

(v) A tenant-occupant of a dwelling who moves from the building/complex after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either:

(A) The tenant-occupant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(B) Other conditions of the move are not reasonable.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, a person does not qualify as a ``displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

(i) The person moved into the property after the submission of the IHP to HUD, but, before signing a lease or commencing occupancy, was provided written notice of the project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a ``displaced person" or for any assistance provided under this section as a result of the project.

(ii) The person is ineligible under 49 CFR 24.2(g)(2).

(iii) The recipient determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination.

(3) A recipient may at any time ask HUD to determine whether a specific displacement is or would be covered under this section.

(h) Definition of initiation of negotiations. For purposes of determining the formula for computing the replacement housing assistance to be provided

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to a person displaced as a direct result of rehabilitation or demolition of the real property, the term ``initiation of negotiations" means the execution of the agreement covering the rehabilitation or demolition (See 49 CFR part 24).

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APPENDIX B

49CFR PART 24 - UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Subpart B - Real Property Acquisition

Sec.

24.101 Applicability of acquisition requirements.
24.102 Basic acquisition policies.
24.103 Criteria for appraisals.
24.104 Review of appraisals.
24.105 Acquisition of tenant-owned improvements.
24.106 Expenses incidental to transfer of title to the Agency.
24.107 Certain litigation expenses.
24.108 Donations.

Sec. 24.101 Applicability of acquisition requirements

(a) General. The requirements of this subpart apply to any acquisition of real property for a Federal program or project, and to programs and projects where there is Federal financial assistance in any part of project costs except for:

(1) Voluntary transactions that meet all of the following conditions:

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly.

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner of what it believes to be the fair market value of the property.

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including the agency's obligation to secure an appraisal, provided to the owner by law and this part. (See also Sec. 24.203.)

(c) Appraisal, waiver thereof, and invitation to owner.

(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in Sec. 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if the owner is donating the property and releases the Agency from this obligation, or the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at $2,500 or less, based on a review of available data.

(d) Establishment and offer of just compensation. Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. (See also Sec. 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) Summary statement. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g.,

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(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

(ii) Inform the owner of what it believes to be fair market value of the property.

(3) The acquisition of real property from a Federal agency, State, or State agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project that is undertaken by, or receives Federal financial assistance from, the Tennessee Valley Authority or the Rural Electrification Administration.

(b) Less-than-full-fee interest in real property. In addition to fee simple title, the provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent easements. (See Appendix A of this part, Sec. 24.101(b).)

(c) Federally-assisted projects. For projects receiving Federal financial assistance, the provisions of Sections. 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (See Sec. 24.4(a).)

Sec. 24.102 Basic acquisition policies.

(a) Expeditious acquisition. The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) Notice to owner. As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections,

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a tenant-owned improvement, and indicate that such interest is not covered by the offer.

(f) Basic negotiation procedures. The Agency shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation; and, explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with Sec. 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) Updating offer of just compensation. If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) Coercive action. The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) Administrative settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) supports such a settlement.

(j) Payment before taking possession. Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency

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may obtain a right-of-entry for construction purposes before making payment available to an owner.

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

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

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

Sec. 24.103 Criteria for appraisals.

(a) Standards of appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions that, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, a detailed appraisal shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

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

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(3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

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

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

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

(b) Influence of the project on just compensation. To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

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

(d) Qualifications of appraisers.

(1) The Agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

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(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to Sec. 24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)

[57 FR 33264, July 27, 1992, as amended at 57 FR 53294, Nov. 9, 1992 (effective date December 31, 1992)]

(e) Conflict of interest. No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is $2,500, or less.

Sec. 24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with Sec. 24.103 to support an approved or recommended value.

(c) The review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement.

Sec. 24.105 Acquisition of tenant-owned improvements.

(a) Acquisition of improvements. When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be

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adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) Improvements considered to be real property. Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this Subpart.

(c) Appraisal and establishment of just compensation for tenant-owned improvements. Just compensation for a tenant-owned improvement is the amount that the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at Sec. 24.2.)

(d) Special conditions. No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement; and

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) Alternative compensation. Nothing in this Subpart shall be construed to deprive the tenant-owner of any right to reject payment under this Subpart and to obtain payment for such property interests in accordance with other applicable law. [54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989]

Sec. 24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and

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(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

Sec. 24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

Sec. 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in Sec. 24.102(c)(2).

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