

FREQUENTLY ASKED QUESTIONS APPRAISALS AND THE LWCF STATE ASSISTANCE PROGRAM

1. Why do I need an appraisal?

An appraisal determines the basis for LWCF federal grant assistance involving the acquisition of real property, establishes fair compensation for the land owner as required by law, and establishes the equivalent fair market value requirement for both converted and replacement property pursuant to Section 6(f)(3) of the LWCF Act as amended.

2. When must an appraisal be conducted?

Before the initiation of negotiations with the property owner, an appraisal must be conducted unless the State determines that an appraisal is unnecessary pursuant to Title 49 Part 24.102 of the *Code of Federal Regulations* and a waiver valuation is prepared (see Question #23 regarding waiver valuations).

3. Where do I go to find information about appraisals and appraisal requirements?

Because the LWCF is a federal assistance program, the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) are the dominant standards for appraisals. These federal standards are used in conjunction with the Uniform Standards of Professional Appraisal Practice (USPAP).

The UASFLA can be found at http://www.justice.gov/enrd/ENRD_Assets/Uniform-Appraisal-Standards.pdf . The USPAP is revised biannually and is available on-line at <http://commerce.appraisalfoundation.org/html/2006%20USPAP/toc.htm> .

Also, Title 49 of the Code of Federal Regulations, Part 24 (the Uniform Relocation Act), specifically addresses the applicability of acquisition requirements to federal acquisitions or federal assistance programs. Realty and land acquisition offices within state and local offices of the Federal Highway Administration may be able to provide additional information with respect to land acquisitions and associated appraisal requirements.

4. What is the “Yellow Book”?

Because of its yellow cover, the UASFLA publication is commonly referred to as the “Yellow Book.”

5. What is USPAP?

USPAP (the Uniform Standards of Professional Appraisal Practice) are national standards for professional appraisal practice the USA and are published by The Appraisal Foundation, which is authorized by the US Congress. All licensed appraisers must comply with these standards.

6. Must each appraisal be reviewed for every LWCF acquisition and every conversion and what type of review is required?

Yes. Except for “waiver valuations,” appraisals conducted for LWCF purposes must be reviewed by a qualified review appraiser pursuant to the UASFLA, Section C, “Standards for the Review of Appraisals.”

The UASFLA and 49 CFR Part 24.104 require that a “technical review” must be conducted by a review appraiser of each appraisal prepared for LWCF purposes. See UASFLA Section C-1 for further guidance on technical reviews.

7. Who is responsible for the appraisal?

The State, as the LWCF grant recipient, is ultimately responsible and must certify that the appraisals comply with LWCF requirements. The associated costs are often passed on to local subrecipients.

8. Is the cost of an appraisal eligible for reimbursement under my LWCF grant?

Because “incidental costs” such as for appraisals are precluded by law, such costs cannot be recouped through a LWCF grant as either a direct or indirect cost.

9. Who is responsible for the appraisal review?

The responsibility for ensuring that the resulting appraisal meets federal standards rests solely with the agency responsible for administering the LWCF grant program at the State level (State Liaison Officer). The State must 1) have an appraisal review process in place to provide guidance to appraisers, 2) ensure that the appraisals are reviewed by State-certified review appraisers, and 3) certify that the appraisal meets federal standards.

10. Can the State delegate its responsibility for obtaining the appraisal review for a locally sponsored project?

If the State opts, as part of its appraisal review process, to allow its LWCF subrecipients to contract for appraisal reviews, it is the State’s responsibility to ensure that the subrecipient’s review process is in conformance with the UASFLA standards for appraisal review. Only the State may certify this compliance to the NPS.

11. Who pays for the appraisal review?

As with appraisals, the cost of an appraisal review is the responsibility of the State or subrecipient and is not an eligible direct or indirect cost under the LWCF program.

12. Does the National Park Service approve the appraisal?

NPS does not review and approve individual appraisals. It will conduct spot checks of appraisals as needed and will review the State’s LWCF appraisal review process. The NPS includes the Office of Valuation Services (OVS) as part of its compliance oversight.

13. What kinds of qualifications are acceptable for appraisers? Do we require specific certifications? Some of the other federal agencies have a list of appraisers they accept. Does LWCF have anything similar?

LWCF-related appraisals may be prepared by only “certified general” appraisers licensed in the state where the property is located. No list of acceptable appraisers or appraisal firms is maintained by the LWCF program, but OVS may be able to refer the grantee to local appraisers with UASFLA experience.

14. How many appraisals must I obtain for each property?

At least one appraisal is required for each property to be acquired with LWCF assistance and for each of the converted and replacement parcel(s) involved in a conversion.

15. What does “highest and best use” mean?

“Highest and best use” is the determinant of market value, i.e., the highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future. See Section B-3 of the UASFLA for a more thorough explanation.

16. Can the highest and best use be the use for which the government entity is acquiring the property?

Since the government entity is using federal assistance to acquire property for a public park (a non-economic use) or is acquiring property to satisfy the replacement requirement for public park land (a similar non-economic consideration), future public park use is not a valid use upon which to estimate market value. See Section B-3 of the UASFLA for additional guidance.

17. How should highest and best use be determined when the zoning for the parcel in question is different than the surrounding area (this comes up with conversions)?

In order to determine the highest and best use of 6(f)-protected land to be converted, the appraiser is to ignore the actual zoning of the property if the zoning is a non-economic zoning established to recognize or preserve the open space characteristic of a LWCF-assisted site. In this case, the appraiser shall determine the likely zoning that would have been established under the hypothetical condition that the park, or preserve, was never created. In so doing, the appraiser will evaluate local economic characteristics, factors, and trends as well as the physical characteristics of the property.

18. What is the definition of market value?

“Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal” (UASFLA).

19. Are the existing improvements to the property factored into the appraisal?

Yes, when the value of the improvements contributes to the highest and best use of the real property. The only exceptions are structures and facilities on replacement property that will not serve a recreation purpose for the new replacement sites.

20. For acquisitions, must I pay the landowner the full fair market value?

Yes, in most cases. However, a landowner may find it advantageous to make a full or partial donation of the property. An approved appraisal is still necessary to determine the amount eligible for matching a LWCF grant, as is documentation from the property seller documenting their willingness to donate a portion of the property's value. Alternatively, negotiations might result in an administrative settlement higher than the appraised value. If the NPS agrees that the administrative settlement is reasonable, the higher amount is eligible for assistance.

21. Does a court settlement in a condemnation acquisition supersede the appraisal?

When lands are acquired through judicial proceedings the price determined by the court will be accepted by NPS in lieu of any previously approved appraised value. However, if a court settlement postdates project approval, there is no obligation for NPS to match an amount higher than what was originally approved.

22. How long before an appraisal is outdated, i.e., how old can an appraisal be and still be considered useful for LWCF situations?

For acquisitions, any appraisal older than one year should be updated by the original appraiser to reflect any changes in the market. For conversions, the lapse of time between the effective date of the appraisals for the converted and replacement properties is critical since the fair market values are being compared. To facilitate this, the converted and replacement properties should be appraised with the same effective date. First, the property to be converted should be appraised and then the replacement property(s) should be appraised with the same effective date as the appraisal for the converted parcel.

23. What is a waiver valuation?

When the estimated value of real property is less than \$10,000 (up to \$25,000 with the owner's concurrence), a waiver valuation may be prepared in lieu of an appraisal (see www.fhwa.dot.gov/realestate/appwaiv1.htm).

24. We already own the land we propose to utilize as replacement for a conversion. Must we appraise this land?

Yes. An appraisal is necessary not to ensure fair compensation in this case, but to determine the fair market value of the parkland so that replacement land of at least equal

fair market value can be obtained as required by Section 6(f)(3) of the LWCF Act as amended and 36 CFR Part 59.3.

25. Is it true that the Section 6(f)(3) encumbrance allows us to appraise the parkland to be converted under the park, recreation, and conservation highest and best use category?

No. Highest and best economic use is to be considered disregarding the existing 6(f)(3) encumbrance since that encumbrance will be removed as part of the conversion.

26. Can my LWCF application be approved before the appraisal is completed?

Yes, however an acceptable appraisal must be completed and the acquisition finalized prior to the first reimbursement. If the appraisal is greater than the original LWCF cost estimate, then the project should be amended.

27. Are appraisals prepared for LWCF purposes subject to the Freedom of Information Act?

Yes, NPS will respond to each FOIA request through a FOIA officer, who will make a determination whether certain information in appraisals will be redacted.