



Acquisition

State of South Carolina Department of Commerce
2025 CDBG Implementation Workshop

Presented by Civitas, LLC





State CDBG Manual, Chapter 10: Acquisition of Real Property





What Can We Acquire?

- Land
- Buildings and other real property improvement
- Easements
- Rights-of-Way
- Air Rights
- Water Rights
- Other interests in real property

Source: 24 CFR 570.201(a)



Right-of-Way (ROW) Acquisitions

- Must comply with URA requirements for acquisition.
- ROW must be acquired and ***recorded prior to bidding*** construction or demolition.
- Titles must be ***clear and insurable***; condemnation filings must be recorded if voluntary acquisition fails.
- Typical issues: outdated plats, intestate succession, technical defects in deeds.
- **Best practice:** Begin ROW acquisition **early in project design** to avoid construction delays.



Why Would We Acquire?

Reason for the acquisition of real property under State program:

- Property for the provision of public works, facilities, and improvements.
- **NOTE:** State program **does not** permit CDBG funds to be used to acquire blighted, deteriorated, properties needed to carry out community development programs.



How and Who Can Acquire Real Property?

How?

- Purchase
- Long Term Lease – at least 15 years
- Donation

Who?

- The Grantee
- Any Other Public Agency
- A Public Nonprofit
- A Private Nonprofit

As per federal regulations, can only be acquired by a for-profit or individual if:

- Property is to be rehabilitated and used for residential purposes
- Property is to be used for an economic development project

Source: Basically CDBG [Chapter 5: Other Real Property Improvements \(hudexchange.info\)](http://hudexchange.info)

Types of Acquisition

Acquisitions may be “voluntary” or “involuntary”

- Voluntary means no eminent domain involved or will not use it under any circumstances
- Involuntary means that an agency has the power of eminent domain and may use it;
 - Most common when property is needed for an infrastructure project
- Applies to all types of acquisitions (ROW, easements, fee simple, etc.).
- Tenants are always eligible for relocation assistance, regardless of voluntary or involuntary status





Voluntary Acquisition

For agencies with the power of eminent domain...

- Voluntary acquisition means:
 - There is no requirement to acquire a specific site or property, although the agency might restrict its search for alternative sites to a certain geographic region.
 - The property being considered for acquisition is not located in an area that is intended, planned, or designated for a project where nearly all properties are to be acquired within a set timeframe.
 - If negotiations do not lead to a mutually agreeable outcome, the agency will not proceed with acquiring the property, and the owner will be notified of this in writing.
 - The agency will provide the owner with a written statement of its assessment of the property's market value.

Source: 49 CFR 24.101



Voluntary Acquisition (continued)

- ***For agencies with the power of eminent domain...***
 - Appraisal is encouraged, but not required by HUD regulation
 - If no appraisal is conducted, the market value estimate must be prepared by someone knowledgeable about real estate values.

Note: In voluntary acquisition, owners are NOT eligible for relocation assistance, but tenants are.



Voluntary Acquisition Notifications

Prior to making an offer for the property, subrecipients must notify the seller that:

- The grantee will not use its power of eminent domain;
- Federal Funds are included in the purchase;
- The Grantee is unable to acquire the property if negotiations fail to result in an agreement;
- Seller is not eligible to receive relocation assistance (tenants are);
- Inform the owner in writing of the estimated market value for the property.
 - o Appraisal not required, but value determination must be made by someone with knowledge of real estate market

Source: 49 CFR 24.101(b)(2)

└ Required Notices (All Acquisitions)

- Must be provided in writing and kept in the acquisition file.
- Inform the owner whether eminent domain authority exists and may (or may not) be used.
- State that federal (CDBG) funds are involved in the acquisition.
- Provide the market value or just compensation determination.
- Clarify relocation rights:
 - Owners in voluntary acquisitions are not eligible for relocation benefits.
 - Tenants are always eligible, regardless of voluntary or involuntary status.
- Notices must be dated, signed (where applicable), and documented for compliance.



Involuntary Acquisition

- A specific site or property must be acquired,
- The property is part of an intended, planned, or designated project area where all or substantially all the property within the area is to be acquired within a specific period of time,
- Eminent Domain may be used to acquire the site,
- Appraisal and review appraisal are required unless
 - The valuation problem is uncomplicated and
 - The anticipated value of the proposed acquisition is estimated at \$15,000 or less, based on a review of available data.

Source: 49 CFR 24.101(b)(2)



Involuntary Acquisition

- Notify Owner of Grantee's Interest in the property;
- Appraiser prepares an appraisal;
- A qualified review appraiser evaluates the appraisal;
- Grantee establishes the just compensation amount to be offered to the property owner;
- Grantee provides property owner with written purchase offer;
- Potential negotiation (see next slide)



Negotiation – Administrative Settlements

- Reasonable
- Prudent
- In the Public Interest
- Successful – Close
- Unsuccessful – Condemn property or Walk Away

└ Acquisition When Two Governments Are Funding One Project

Ownership & Jurisdiction:

- Confirm which government has legal authority to acquire the property (title, right-of-way, easements).
 - Designate a **lead agency** for acquisition (*whether county or city*)
- Intergovernmental agreements (IGAs/MOUs) should clearly assign responsibilities.
 - **Which entity will handle appraisals, negotiations, closings?**
 - **Which entity will maintain the official URA/CDBG acquisition files?**
 - **How disputes will be resolved?**



Provide joint training to staff from both governments to ensure uniform notices and documentation.

Source: 24 CFR 570.501



When Two Governments Are Involved

Funding & Match Requirements:

- If both county and local governments are contributing resources, sources and uses must be clearly separate and cost-sharing must be documented.
- If resources from different federal entities (e.g., CDBG and USDA) are used on one project, it is critical to understand, track, and comply with the different regulatory requirements for each funding source.
 - NOTE: The most stringent program requirements will apply to the entire project.
- Careful coordination and documentation are required to ensure all applicable federal rules are met when combining programs in a single project.

Common Pitfalls:

- Conflicting appraisal standards or review requirements.
- Overlapping procurement procedures.
- Delays if one entity's governing body approval is required before closing.

Source: 24 CFR 570.489(a); 2 CFR 200.302



When Two Governments Are Involved

Key Considerations:

- **Environmental Review:** If more than one agency has authority, the lead agency must be designated.
 - A single environmental assessment may be used by multiple agencies provided there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities
- **URA:** The entity conducting the acquisition must follow Uniform Relocation Act requirements.
 - Ensure consistent notices and valuation methods across both jurisdictions.

 **General Rule:** Follow the more stringent acquisition/URA requirement when federal standards differ.

Source: 40 CFR Part 1506.2; 49 CFR 24.4; 49 CFR 24.203; 24 CFR Part 58.14



When Two Governments Are Involved

Document in the file:

- Both agency requirements reviewed.
- For two separate funding sources, comply with the different regulatory requirements for each funding source.
- Evidence that notices and just compensation standards align with higher standard.

****Communicate with state CDBG staff if conflicts arise – State must approve acquisition strategy.****

Source: 2 CFR 200.334-.337



Waiver Valuations

- An appraisal is not required for cases involving acquisition by sale or donation when:
 - The anticipated value is less than \$15,000; and
 - The valuation problem is not complex
- The person performing the waiver valuation must:
 - Have sufficient understanding of appraisal principles;
 - Have sufficient understanding of the local real estate market
- In addition to higher value properties and complexity, Waiver Valuations cannot be used when:
 - Use of eminent domain is anticipated;
 - Questions on highest and best use exist
 - Possible damages to the remainder property exists
 - Hazardous material may be present



Implications of Mid-Process Changes

If involuntary acquisition begins with the waiver valuation process and then moves to ***eminent domain***, the acquisition process **must be restarted**.

- If eminent domain becomes necessary, a full appraisal and review appraisal will need to be obtained instead of relying on the waiver valuation (see previous steps)



Uniform Relocation Act

- States or state recipients, shall assure that they have taken all reasonable steps to minimize the displacement of persons* because of activities assisted under this part.
- As per the 2024-25 Application Guidelines, it is the State's policy not to fund projects involving relocation unless there is a documented health/safety threat
- Resource: [HUD URA Overview](#)

* Includes families, individuals, businesses, nonprofit organizations, and farms

Source: 24 CFR 570.606





What Can We Pay For?

The Property

Surveys

Appraisals

Legal Fees

Recording Fees

Other Costs Necessary to Effect the Acquisition

Reasonable cost for temporary management until final disposition is made

Source: Basically CDBG [Chapter 5: Other Real Property Improvements \(hudexchange.info\)](http://hudexchange.info)



Title Issues

- HUD requires ***clear, marketable, and insurable title*** as a condition of CDBG acquisition
- Common Barriers:
 - Limited Public Records Regarding Ownership
 - Intestate Succession (aka dying without a will)
 - Technical defects in chain of title



Intestate Succession in South Carolina

If one dies without a will and...

... There are:	Here's what happens:
Children but no spouse	Children inherit everything
Spouse but no descendants	Spouse inherits everything
Spouse and descendants	Spouse inherits 1/2 of intestate property, descendants inherit everything else
Parents but no spouse or descendants	Parents inherit everything
Siblings but no spouse, descendants, or parents	Siblings inherit everything



Fixing Title Issues

- Easy, inexpensive and potentially fast fix:
 - Locate a key person and have them sign a quit claim deed
 - Owners enter into a private agreement to resolve the title problems
- If the above are not options, ***quiet title action*** must be taken
 - Legal action or lawsuit to determine or confirm ownership of real property;
 - Used to resolve or prevent disputes, errors or ambiguities in the chain of title;

Quiet Title Action

- The outcome of a quiet title action is a clear and enforceable title;
- Requires an attorney experienced in this area of the law;
- Typically, must be used when potential owners cannot be located or are unknown;
- Unknown parties which might have some right, title or interest in the subject property are made defendants and are served with the Summons and Lis Pendens by publication of three separate legal notices.
- Most SC quiet title actions can be completed within 6 months and cost \$4,000-\$8,000 depending on complexity, whether the action is contested, etc.
- Complex or contested actions cost more and take longer



What Isn't Real Property?

- Moveable Equipment;
- Furnishings;
- Machinery;
- Other Ineligible Activities:
 - Acquiring property that will be sold or donated to the same entity from which the property was purchased.

Source Basically CDBG [Chapter 5: Other Real Property Improvements \(hudexchange.info\)](http://hudexchange.info)



National Objectives

- Based on the end use, excluding any short term, temporary use
- If the specific end use is not known at time of acquisition
 - Document general proposed use (infrastructure improvement, etc.)
 - Document the national objective category you expect to meet
 - Make a written commitment to use the property only for a specific project under that general use that will meet the specified national objective

Change of Use

- For real property acquired or improved with more than \$250,000 of CDBG funds (for Program Year 2025 and later):
- Within 5 years of grant closeout, the use or planned use of any such property (including the beneficiaries) from that for which the acquisition or improvement was made CANNOT change unless
 - The recipient provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either:
 - The new use of such property meets a national objective or
 - If the recipient determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not meet a national objective:
 - CDBG program must be reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition/improvement.

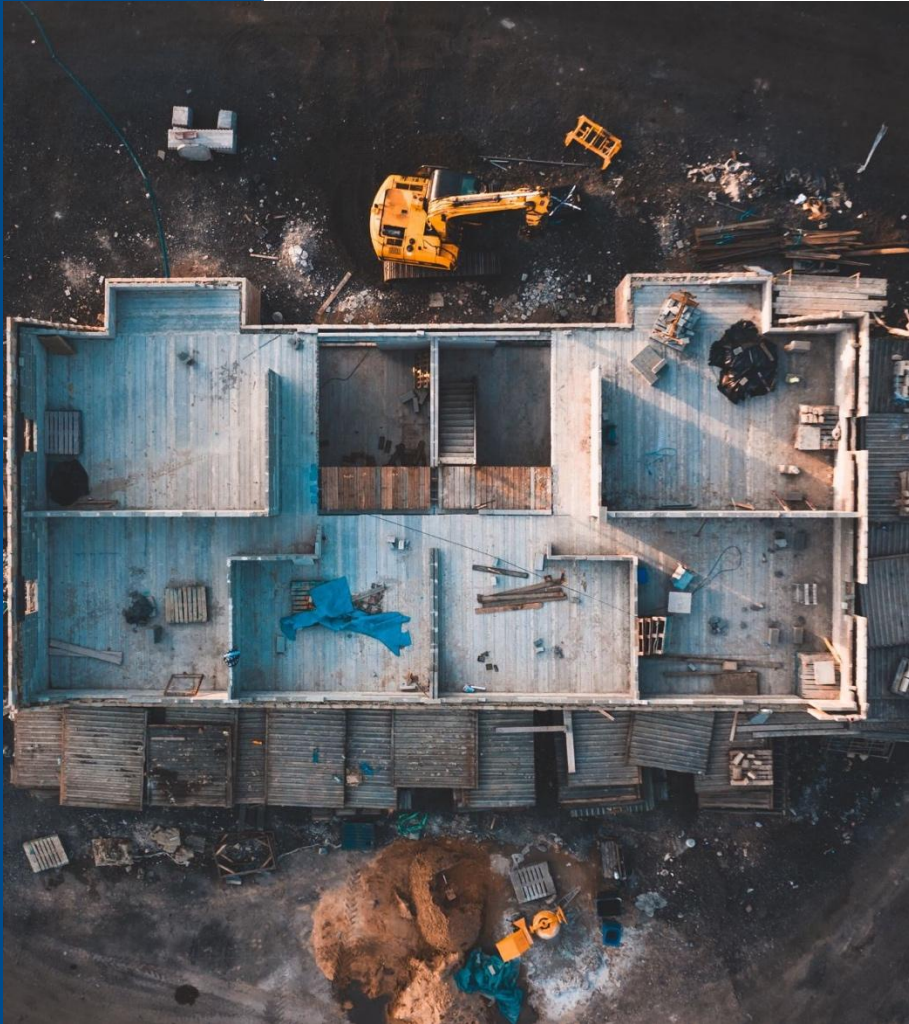
Source: 24 CFR 570.505, 48 CFR 2.101



Environmental Review

Must be completed before acquisition

- Complete ER before any choice-limiting action
 - Option/Conditional agreement can secure site control in the meantime.
 - No offers or donations can be accepted until ER is complete.



Cross-Cutting Federal Regulations

- Environmental Review (always)
- Lead-Based Paint (Existing residential buildings built before 1978)
- Uniform Relocation Act (if acquiring an occupied structure AND existing tenants must move)
- Section 3 – doesn't apply to acquisition; applies to construction/rehab
- Davis-Bacon - doesn't apply to acquisition; applies to construction/rehab



State Policy Reminder

Acquisition of all property required for a project must be complete in accordance with URA prior to taking bids for construction (or demolition).

[CDBG Manual, Chapter 8 Procurement and Contracting, P 1](#)



Recordkeeping

For each parcel, permanent or temporary easement necessary for the project, or long-term lease, the recipient must document and maintain in an individual case file, evidence of the following:

- A property identifier (e.g., tax map number, or parcel number).
- Name and address of the property owner(s).
- Evidence that the owner was informed on a timely basis about the acquisition and the owner's (and tenant's if applicable) rights under the Uniform Relocation Act.
- A copy of each appraisal report or valuation, including the review appraiser's statement or report, if required and evidence the owner was invited to accompany each appraiser on his or her inspection of the property.
- A record of the process used to establish just compensation.



Recordkeeping (continued)

For each parcel, permanent or temporary easement necessary for the project, or long-term lease, the recipient must document and maintain in an individual case file, evidence of the following:

- The Written Offer to Purchase and Summary Statement of the Basis of the Determination of Just Compensation, and evidence of method and date of delivery to the property owner.
- Title policy and survey
- The purchase contract and documents conveying the property.
- Closing statement identifying incidental expenses and evidence that the owner received the net proceeds from the sale, (e.g., a copy of the canceled check).
- Any appeal or complaint and the recipient's response.

Suggested CDBG Acquisition Files

- Signed Acknowledgement to Voluntarily Relinquish Payments Due Under the URA (if voluntary donation)
- Preliminary Acquisition Notice and Copy of "When a Public Agency Acquires Your Property"
- Evidence that a Competitive Process was Utilized in Selecting Appraisers
- Appraisal Contracts
- Appraisal and Review Appraisal Report, Value Determination if applicable or Waiver Valuation, if applicable
- Evidence and Date of Personal Contacts with Property Owner
- Evidence that the Property Owner was Invited to Accompany the Appraiser

Suggested CDBG Acquisition Files

- Written Offer to Purchase and Summary Statement of the Basis for the Offer of Just Compensation
- Evidence that the Items Sent to Property Owners were mailed First Class, Return Receipt Requested
- Written Acceptance or Rejection of Offer to Purchase
- Written Evidence of Negotiation (if applicable)
- Copy of Canceled Check(s) or Other Proof of Payment
- Summary Statement of Settlement Costs
- Copy of the Executed and Recorded Deed

Discussion & Questions?



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HUD Guidance

- [Real Estate Acquisition and Relocation Overview in HUD Programs](#)
- [HUD Handbook 1378](#) (URA Acquisition & Relocation)
 - Ch. 5 – Real Property Acquisition
- [URA the HUD Way](#) - on-demand training
- [Basically CDBG – Chapter 5](#): Other Real Property Improvements
- [Basically CDBG - Chapter 14](#): Relocation and Acquisition
- [CPD Monitoring Handbook](#) (6509.2) - Chapter 4 and Chapter 25
- [CFR 24 Part 58](#) + [§58.22](#) (environmental review and choice-limiting actions; how to use options/conditional contracts).