DATE: January 03, 2012

TO: Users of the Real Estate Manual

FROM: Kevin O’Grady, Manager Appraisal Unit

RE: Changes and Updates to the Real Estate Manual

The only current and accurate source of ODOT’s Real Estate Manual is on the Office of Real Estate’s website. This site is located at: http://www.dot.state.oh.us/real. Desired information can be accessed by scrolling down the left column and selecting “Manuals and Booklets.” Specific information can be selected by clicking on the desired section.

The Real Estate Manual is a “living document” as procedures will evolve and change. Individuals or firms providing various services to the Office of Real Estate (e.g. negotiations, titles, appraisal, appraisal review, relocation, relocation review, closing, property management, railroad coordination and utility relocation) must perform these services in compliance with current published policies and procedures. Individuals utilizing a hard copy version of the manual, without accessing the website for updates, risk providing non-compliant services to the Office of Real Estate. Therefore, all users must be aware of the changes as various sections of the manual are updated.

ODOT will provide notice of manual changes on the Design Reference Resource Center (DRRC) web page. Users of the manual can access this page and subscribe to be made aware of manual changes via e-mail notification. Then, when changes to the manual occur, ODOT will provide direct notice to the subscriber. This page can be accessed at http://www.dot.state.oh.us/DRRC. Scroll down to “Real Estate Policies and Procedures Manual” and select the desired section for updates, or enter your e-mail address to subscribe for changes. It is the user’s responsibility to maintain their most current e-mail address on the DRRC notification system. The DRRC web site is updated four times a year.

The Office of Real Estate may also provide additional guidance to its procedures by Inter-Office Communications (IOC’s). These communications will be made a part of the Real Estate Manual. If Individuals having questions pertaining specifically to this Section, contact me at (614) 446-5054.
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4000 The Appraisal Operating Manual
A. This manual establishes the procedures for appraisal and for the review of appraisals for the Ohio Department of Transportation. This manual is posted on the ODOT - Office of Real Estate web page:

http://www.dot.state.oh.us/Divisions/Engineering/RealEstate/Pages/default.aspx

As manuals are revised over time, users must always reference the web page for the most current version of the manual and forms referenced in the manual.

4000.01 Non-Discrimination Policy

All policies and procedures described in these sections will be administered to comply with the provisions of Titles VI and VIII of the Civil Rights Acts of 1964 and 1968, respectively, to assure nondiscrimination and fair housing opportunities.

In all matters relating to appraisal and appraisal review as described in the following sections, no person or persons shall be excluded from participation in or otherwise discriminated against on the grounds of race, color, religion, sex, national origin, age or disability. Any reference made to appraisers in this policy shall automatically apply to appraisal reviewers, agency administrators and agency staff as well.

Appraisers cannot discriminate based upon owner or occupant of property acquired. All appraisers must provide equal treatment throughout the appraisal process. Appraisers must provide all persons the same opportunities for owner accompaniment during the property viewings. Appraisers cannot discriminate in the selection of sales, rents or selection of other market data based upon the previously noted protected categories. Appraisers cannot discriminate in making adjustments to those sales and must provide all appropriate approaches to value. When writing the report, appraisers must be careful to NOT use discriminatory terms or terms that could be construed to be discriminatory.

4000.02 Manual Organization

4000 The Appraisal Operating Manual
4100 The F.M.V.E. Delivery Process
4200 Valuation Formats
4300 Review of Eminent Domain Appraisals
4400 Guide To Compensability
4500 Non Eminent Domain Valuations
### Acronyms Used In This Manual

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<th>Acronym</th>
<th>Description</th>
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<tr>
<td>AGO:</td>
<td>Ohio Attorney General’s Office</td>
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<td>AAG:</td>
<td>Assistant Attorney General</td>
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<tr>
<td>AASHTO:</td>
<td>American Association of State Highway and Transportation Officials</td>
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<tr>
<td>APA:</td>
<td>Appraisal Problem Analysis</td>
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<td>APM:</td>
<td>Appraisal Program Manager</td>
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<td>ASAC:</td>
<td>Agricultural Stabilization and Land Conservation Agency</td>
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<td>CAUV:</td>
<td>Current Agricultural Use Value</td>
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<td>CE:</td>
<td>Categorical Exclusion</td>
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<tr>
<td>CFR:</td>
<td>Code of Federal Regulations</td>
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<tr>
<td>DAS:</td>
<td>Ohio Department of Administrative Services</td>
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<td>DREA:</td>
<td>Real Estate Administrator - at the ODOT District Office</td>
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<tr>
<td>EIS:</td>
<td>Environmental Impact Statement</td>
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<td>FHWA:</td>
<td>Federal Highway Administration</td>
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<td>FMVE:</td>
<td>Fair Market Value Estimate</td>
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<td>LPA:</td>
<td>Local Public Agency</td>
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<td>NIAGFO:</td>
<td>Notice of Intent to Acquire and Good Faith Offer</td>
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<td>NEPA:</td>
<td>National Environmental Protection Act</td>
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<tr>
<td>OAC:</td>
<td>Ohio Administrative Code or Ohio Administrative Rules</td>
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<td>ODOT:</td>
<td>Ohio Department of Transportation</td>
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<td>OJI:</td>
<td>Ohio Jury Instruction</td>
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<td>ORC or RC:</td>
<td>Ohio Revised Code</td>
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<td>ORE:</td>
<td>Office of Real Estate (ODOT)</td>
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<td>OHS:</td>
<td>Ohio Historical Society</td>
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<td>ODNR:</td>
<td>Ohio Department of Natural Resources</td>
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<td>PID:</td>
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<td>Present Road Occupancy or Present Road Occupied</td>
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<td>RAP:</td>
<td>Relocation Assistance Program</td>
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<td>R.C.</td>
<td>Ohio Revised Code</td>
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<td>REALM:</td>
<td>Division of Real Estate and Land Management (ODNR)</td>
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<td>ROW or R/W:</td>
<td>Right-of-Way</td>
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<td>RSM:</td>
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<td>SJN:</td>
<td>State Job Number</td>
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<td>STIP:</td>
<td>State Transportation Improvement Program</td>
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<td>STD:</td>
<td>State Transportation Department</td>
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<td>SHPO:</td>
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<td>UA:</td>
<td>The Uniform Act; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646</td>
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<td>UASFLA:</td>
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<td>Uniform Standards for Professional Appraisal Practice</td>
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<td>USC:</td>
<td>United States Code</td>
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4000.04  Legal Authority for Eminent Domain Valuation

A. ODOT’s eminent domain authority:

In the State of Ohio, the acquisition of property taken for roads open to the public mandate the acquiring agency pay the owner compensation (Ohio Constitution, Article 1, Section 19). Appraisals and appraisal reviews needed for transportation projects are created under ODOT’s eminent domain authority. Under this authority, ODOT is required to pay an owner compensation and allocate that compensation into the part taken and damages, if any, to the part not taken.

1. See Ohio Revised Code, Section 163.59(D).

2. See Ohio Revised Code, Section 163.06(B).

B. Compensation Process:

Compensation is established by the Ohio Department of Transportation (ODOT) based on the following:

1. An appraisal that estimates compensation for the part taken and for damages, if any, to the remaining part of the property not acquired [49 CFR 24.102(e)].

2. A review of the appraisal and a reviewer’s recommendation that the appraisal should or should not be the basis of compensation offered to the owner (49 CFR 24.104).

3. The establishment of the fair market value estimate (FMVE) by an agency official. FMVE is the compensation estimate that will be offered to the owner of property to be acquired by the agency. For appraisals, the official’s signature on form RE 22 establishes FMVE (49 CFR 24.102(d)). For waivers of appraisal, the official’s signature on the Value Analysis Report establishes FMVE.

These acquisitions are completed under the Director of Transportation’s authority of eminent domain. Therefore, the appraisal process must comply with Section 163 of the Ohio Revised Code and with Section 5501 of the Ohio Administrative Code. Also influencing the appraisal process are various case law decisions regarding what is and is not compensable in the State Ohio. The appraisal and appraisal review processes must comply with the Uniform Act and its implementing regulation, 49 CFR Part 24, if federal funds are used in any part of the project such as project design, acquisition of rights of way and/or project construction.

These appraisal and appraisal review processes are integral to clearance of the project corridor so the construction phase can be initiated and the project can be built and
open to the public. Regulations influencing this process require the appraisal process to be completed prior to any negotiations with an owner (49 CFR 24.102(d)). The appraisal and appraisal review processes are the basis of fair compensation paid to the owner as required by regulation. A well-managed appraisal and appraisal review process utilizing people adequately knowledgeable of current appraisal practices, appraisal methodologies, Uniform Standards of Professional Appraisal Practice (USPAP), of laws and regulations controlling eminent domain valuation and of ODOT appraisal procedures are critical to ensure delivery a good appraisal program.

This Appraisal Operating Manual implements these various laws, regulations, appraisal practices and methodologies into the Standard Procedures for ODOT’s appraisal processes.

C. Just Compensation:

Ohio case law requires a witness to first provide an opinion of value of the residue or remainder parcel in its “as severed” or “as damaged” condition before the witness may discuss damages or cost-to-cures. [Atlantic & Great Western Railway v. Campbell - (1855), Powers v. Railway Co.; (1878), Railway Co. v. Gardner; (1887), Am. Louisiana Pipeline Co. v. Kennerk; (1957), Masheter v. Kebe; (1973), Wray v. Stwartak; (1997), City of Hilliard v. First Industrial; (2004).] This body of case law requires the appraiser to appraise the residue as uncured to estimate total potential damages using typical appraisal techniques instead of merely subtracting an estimate of damages from the before value to arrive at an after value. Ohio case law also permits the District to mitigate some or all of the potential damages. This mitigation is known as a cost to cure. Refer to section 4400.45 of the manual for more information and the Summary R/W Appraisal Report template (RE 25-17).

The Ohio Constitution requires a property owner to be paid for what is taken. So even if there is no difference between the before and after value conclusions, the property owner will still be offered compensation for the part taken based upon the value of the property before the taking. Therefore, the proper measure of compensation is founded on a before and after appraisal subject to the condition that compensation may never be less than the value of the part taken.

The Ohio Constitution (Article 1, Section 19) requires the acquiring agency pay compensation without deduction for benefits to any property of the owner. Ohio Revised Code Section 163.14(A) requires the assessment of compensation and damages, if any, without deduction for general benefits as to the property of the owner. Based on these laws, compensation cannot be offset by general benefits. However, in unique circumstances when there is a benefit caused by the project that is special or specific to one property, the damage component of compensation may be offset by this special benefit.

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This estimate of compensation is determined by an appraisal that estimates the value of the whole property before taking, ignoring project influence, and then estimates another value for the property after the taking (known as the residue property), assuming the acquisition process is complete, the project is open to the public, and based on the presumption that the residue is not cured.

Federal and state laws require ODOT to allocate this compensation into an amount for the part taken and an amount for damages, if any.

Allocation of compensation for the part taken is based on the value of the property before the taking. Damages are not appraised, but instead are allocated based on the difference between the before and after values minus the part taken. It is critical that the after appraisal reflect the uncured residue property to estimate total potential damages (known as total damages, if uncured).

In addition, compensation may be required for temporary easements (T-parcels) which are necessary for the construction phase of the project. This additional compensation is added to the difference between the before and after values to estimate total compensation for the acquisition. Compensation for T-parcels is based on the value of the residue property since the T parcel will not commence until the time of the taking and will encumber the residue property for the duration of the T.

The general formula used to estimate compensation is:

\[
\text{Value of the Property Before the Taking} - \text{Value of the Residue Uncured} + \text{Temporary Easements} = \text{Total Compensation}
\]

Refer to section 4400.45 and the Summary R/W Appraisal Report template (RE 25-17) for more information regarding specific modifications to this formula reflecting cost to cure analysis.

D. Contributory Value:

1. Ohio condemnation practice requires the value of the whole and the value of the residue to be allocated into:
   a. Land,
   b. Site Improvements; and,
   c. Structure/Building Improvements.

   The appraiser is required to support the allocation for each of these components.
2. The allocation of these components is not required for the Value Analysis Report or the Value Finding Report.

E. Definition of Market Value from Ohio Jury Instruction (OJI):

The definition of market value used by the Ohio Department of Transportation is taken from Ohio Jury Instruction. This statement is the charge given to a jury by the judge in an eminent domain trial just before the jury is sequestered to consider the evidence and render a verdict. The definition of market value used by ODOT in the acquisition of rights of way is: Ohio Jury Instruction [CV 609.05]:

“You will award to the property owner(s) the amount of money you determine to be the fair market value of the property taken. Fair market value is the amount of money which could be obtained on the market at a voluntary sale of the property. It is the amount a purchaser who is willing, but not required to buy, would pay and that a seller who is willing, but not required to sell, would accept, when both are fully aware and informed of all the circumstances involving the value and use of the property. You should consider every element that a buyer would consider before making a purchase. You should take into consideration the location, surrounding area, quality and general condition of the premises, the improvements thereon and everything that adds to or detracts from the value of the property.”

F. Interrelating Laws, Regulations, and Standards:

There are many laws, regulations and standards governing the acquisition and valuation of real estate by entities having the power of eminent domain. Some of these laws and regulations originate with the Federal government and some originate with the State of Ohio. Some Federal laws and regulations are repeated in State laws and regulations because some state agencies, i.e. ODOT, utilize Federal funding in transportation projects. Noncompliance with Federal and/or State laws, rules and regulations risk forfeiture of Federal funding for the project. These appraisal and appraisal review procedures implement these laws into ODOT’s procedural practices.

4000.05 USPAP

A. USPAP Compliance:

All appraisal reports and formats used by ODOT are to be compliant with the USPAP standards. USPAP is the Uniform Standards for Professional Appraisal Practice.

B. Restricted Use Appraisal Report:
Restricted Use Appraisal Reports are not permitted to be used when ODOT, or any other acquiring agency subject to ODOT jurisdiction, is acquiring real property for a transportation project.

C. Jurisdictional Exception:

1. The Jurisdictional Exception provision was rewritten in the 2010 edition of USPAP. As revised, certified and licensed appraisers may invoke the jurisdictional exception provision only if the appraiser is precluded by a law or regulation from complying with a part of USPAP and only that part of USPAP becomes void for that assignment.

2. The Ohio Administrative Code [section 5501:2-5-06 (B)(3)(b)(ii)(a)] was revised on September 27, 2010. This revision allows certified or licensed appraisers to cite regulation precluding compliance from certain parts of USPAP, thereby, allowing these appraisers to prepare and/or review the Value Analysis Report. This revised section of regulation is provided as follows:

   When an appraisal is determined to be unnecessary, the agency shall prepare a waiver valuation. Persons preparing or reviewing a waiver valuation are precluded from complying with standard rules 1, 2 and 3 of the "Uniform Standards of Professional Appraisal Practice" (USPAP), as in effect in the 2010-2011 Edition, as promulgated by the "Appraisal Standards Board of the Appraisal Foundation, which can be found at http://www.uspap.org/2010USPAP/USPAP/frwrd/uspap_toc.htm

3. In order to comply with USPAP while still performing a Value Analysis Report, the certified or licensed appraiser must comply with the rules established by ODOT for the Value Analysis, clearly and conspicuously disclose the parts of USPAP that are voided by the regulation and cite the regulation.

D. Extraordinary Assumptions:

1. USPAP defines extraordinary assumptions as an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser’s opinions or conclusions. [USPAP, Definitions, Page U-3]

   Before an appraiser can use an extraordinary assumption in an appraisal report the appraiser has to satisfy the following conditions: “An extraordinary assumption may be used in an assignment only if: it is required to properly develop credible opinions and conclusions; the appraiser has a reasonable basis for the extraordinary assumption; use of the extraordinary assumption results in a credible analysis; and the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.” [USPAP SR1-2(f), page U-18]

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2. ODOT recognizes that occasionally appraisers need to use extraordinary assumptions in their assignments as necessary for credible results. The ODOT is required by law and regulation to obtain appraisal reports that meet the Department’s program needs [OAC 5501:2-5-06(C)(1)(b) and 49CFR 24.103(a)(2)]. Sometimes the use of an extraordinary assumption by an appraiser causes an appraisal report to not meet the Department’s program needs. Often, the Department has the resources or capabilities to assist the appraiser in obtaining information necessary to render the need for an extraordinary assumption unnecessary.

3. The use of any extraordinary assumptions in an assignment must be discussed with the client (the District) as soon as the need for an extraordinary assumption is discovered. Ideally this discussion occurs during the scope of work meeting. If the District’s prohibition of an appraiser’s use of an extraordinary assumption will result in a misleading report, then the appraiser has an obligation to explain to the District the conflict and either resolve it or withdraw from the assignment. The District may reject an appraisal report if the appraiser delivered the report having extraordinary assumptions which were not previously made known and agreed to by the District.

E. Hypothetical Conditions:

1. USPAP defines Hypothetical Conditions as: that which is contrary to what exists but is supposed for the purpose of analysis. [USPAP, Definitions, Page U-3]

Before and appraiser can use a hypothetical condition in an appraisal assignment the appraiser has to satisfy the following conditions: “A hypothetical condition may be used in an assignment only if: use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison; use of the hypothetical condition results in a credible analysis; and the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.” [USPAP SR1-2(g), page U-18]

2. ODOT recognizes that appraisers need to use hypothetical conditions in every appraisal assignment in order to comply with Ohio Revised Code 163.59(D) to disregard project influence which is the same as the following regulations [OAC 5501:2-5-06(C)(2) and 49 CFR 24.103 (b)]. The guidance found in the 2010 edition of USPAP on page F-86 make it clear this law qualifies as a hypothetical condition.

3. There may be other circumstances where appraisers need to use hypothetical conditions in their assignments. ODOT is required by law and regulation to obtain appraisal reports that meet the Department’s program needs [OAC 5501:2-5-06(C)(1)(b) and 49CFR 24.103(a)(2)]. Sometimes the use of a hypothetical condition by an appraiser causes an appraisal report to not meet the Department’s
program needs. Often, the Department has the resources or capabilities to assist the appraiser in obtaining information necessary to render the need for a hypothetical condition unnecessary.

4. The use of any hypothetical condition in an assignment must be discussed with the client (the District) as soon as the need for a hypothetical condition is discovered. Ideally this discussion occurs during the scope of work meeting. If the District’s prohibition of an appraiser’s use of a hypothetical condition will result in a misleading report, then the appraiser has an obligation to explain the conflict to the District and either resolve it or withdraw from the assignment. The District may reject an appraisal report if the appraiser delivered the report with a hypothetical condition (other than the condition of ignoring project influence) which was not previously made known and agreed to by the District.

F. Competency Rule and ODOT:

1. Geographic Competency: Appraisers that accept assignments away from their normal geographical areas of expertise must take the steps necessary to competently complete their assignments by either spending sufficient time in the unfamiliar location to understand the nuances of the local market, or by affiliation with local real estate experts to the extent necessary to competently complete the assignment.

2. Appraisers must have knowledge and experience in the property type they are appraising.

3. Eminent Domain Competency: The USPAP Competency Rule was modified in 2010 to emphasize an appraiser’s responsibility to recognize and comply with laws and regulations that apply to an assignment. The most obvious situation with eminent domain valuation is for the appraiser to understand the purpose of any appraisal assignment in eminent domain valuation is to estimate compensation due the property owner. Sometimes a project will impact a property’s value, but the impacts are not compensable under the laws of the State. To put forth an opinion of value or an estimate of compensation for the purposes of negotiation that does not recognize these regulations and laws (including case law) may result in the appraiser putting forth a misleading report. The appraiser is cautioned to seek legal guidance about the compensability of items and maintain documentation of that guidance in their workfile.

G. Previous Employment:

1. Before accepting an appraisal or appraisal review assignment, the appraiser must disclose to the acquiring agency and detail in the report certification if he/she has any current or prospective interest in the property or parties involved; and, if he/she has provided any services, including appraisal or appraisal review services.
regarding the property within the three year period immediately preceding the assignment. (USPAP, Ethics Rule, Conduct Provision)

H. Significant Professional Assistance acknowledgements:

1. On ODOT appraisals, the appraiser may utilize the efforts of others and disclose their names in the certification in compliance with USPAP.

2. When the appraiser discloses on the certification that another, or several others, have significantly contributed to an appraisal report, some clarification is in order. From USPAP, the requirement for disclosing assistance by another is found in SR 2-2(b)(vii), 2-3 and AO-31. USPAP requires the name of individuals providing significant assistance to be stated within the certification and the nature of the assistance must be noted. The specific tasks performed by the assistant should be clearly stated as part of the scope of work disclosure. Further, the appraiser signing the report accepts full responsibility for all elements within the report including the work of those who have assisted. The signing appraiser is required to have a reasonable basis for believing that those individuals performing work are competent and their work is credible.

I. Delegation of the Assignment and Signature of the Appraiser:

1. ODOT needs some degree of certainty the fee appraiser hired by the Department, or a consultant acting on behalf of the Department, actually did the appraisal (themselves) and did not have someone else perform the appraisal [Ohio Administrative Codes 5501:2-5-06(C)(4) and (D)(1); 49 CFR 24.103(a) and (d)(2)].

2. Based on these regulations, ODOT must only utilize appraisers who are listed as pre-qualified.

Appraisers or review appraisers engaged by the District, or engaged by a consultant working for the District, may not delegate their assignment to another without first obtaining approval from the District/consultant who engaged the appraiser.

3. ODOT shall only accept the signature of the appraiser who was contracted by the District or the managing consultant working for the District. No other signatures are permitted on the appraisal report submitted to the District.

4000.06 Processes Requiring Appraisals

A. ODOT requires the valuation of real property under the following circumstances:

1. Acquisition of rights of way needed for transportation projects,
2. To offset the price paid for an acquisition parcel by the value of a disposal parcel.
3. Access modifications,
4. Disposal of excess land, and
5. Purchases of real property that cannot be acquired by appropriation (voluntary transactions).

B. Each of these valuation activities requires an appraisal review. These valuation activities are further discussed in section 4200 of this Manual.

4000.07 Valuation Procedural Requirements

A. Owner Accompaniment: The owner is extended an opportunity to accompany the appraiser:

1. When an appraisal is required, the appraiser shall extend an invitation to the property owner, or the owner’s representative, to accompany the appraiser during his inspection of the property. The invitation shall either be verbal or in writing and shall allow the owner a reasonable opportunity to accompany. The appraiser shall document his efforts in extending the invitation for accompany in the appraisal report. This is documented on form RE 25-6 Certificate of Appraiser.

2. An offer to the owner for accompaniment is required by law and regulation. See: 42 USC Chapter 61, Section 4651(2); 49 CFR, 24.102(c)(1); ORC 163.59(C); and, OAC 5501:2-5-06(B)(3)(a).

3. Owner accompaniment is not required for the Value Analysis Report as it is under the waiver of appraisal provision.

B. All valuation formats shall be reviewed:

All appraisals and waiver of appraisals (Value Analysis Reports) performed during the acquisition phase of a project will be reviewed by a pre-approved review appraiser prior to being accepted by the acquiring agency. Review is a legal requirement if the purpose of the appraisal (or waiver of appraisal) is to estimate compensation during the acquisition phase of any project [OAC 5501:2-5-06 (D) and 49 CFR 24.104].

1. Appraisals performed in support of the litigation process do not need to be reviewed unless the assigned assistant attorney general requests a review.

C. Appraisals must be provided to owner:

1. An appraisal or valuation that is the basis of compensation will be provided to the owner during the initial offer of compensation as required
D. Minimum Award Procedure:

1. The minimum amount of compensation offered to an ownership is $300. Ownership is defined as a parcel (or parcel series) identified on the right of way plans. Husband and wife are one ownership. The minimum offer applies when the aggregate total compensation of a parcel series is less than $300.

2. For the Value Analysis Report, these procedures shall be implemented by the person preparing the Value Analysis. For all other valuation formats the Minimum Award Procedures shall be implemented by the review appraiser when preparing the Review Appraisers Fair Market Value Estimate (RE 22).

3. Examples illustrating this procedure:

   a. Parcel 1 is a series of takes and is owned by Fred Barnes. The parcel series includes 1WD and 1T. The person who prepared the Value Analysis estimated compensation at $150 for 1WD and $25 for 1T. The total compensation was $175. How much is recommended as compensation?

      Answer. Aggregate compensation for the parcel series is less than $300. The compensation amount is rounded up by the preparer to $300.

   b. Parcel 10WD is owned by Sam and Melinda Smith. The appraiser estimated compensation at $100. Parcel 15WD is on the same project and is also owned by the Smith’s. On a separate appraisal, compensation for Parcel 15WD was estimated at $75. How much is recommended as compensation?

      Answer: There are two different parcel numbers and two different appraisal reports. Therefore, the reviewer is to recommend compensation at $300 for Parcel 10WD and another $300 in compensation for Parcel 15WD.

   c. Three brothers jointly own a farm. The project requires a small strip acquisition from the farm identified as parcel 12WD. The compensation is $100. How much compensation should be recommended?
Answer: Parcel 12WD is one ownership parcel series. The ownership consists of 3 people. If the valuation format is a Value Analysis, then the preparer would round the award up to $300. All other valuation formats require the appraiser to estimate compensation with the reviewer implementing the minimum compensation procedures in the amount of $300. The negotiator is to make one offer naming the 3 brothers as the owner of the property.

d. Parcel 34WD is owned by Robert and Wanda Jones as husband and wife. The estimated compensation for the land was $100. There was also a small decorative stone wall in the take area that was estimated at $150. How much should be recommended as compensation?

Answer: The person estimating compensation should round the award up to $300 and one offer should be made to Mr. and Mrs. Jones.

E. Parcel Impact Notes (PIN’s) are required on all valuation parcels.

F. Project Influence: All valuations must ignore project influence in the analysis of the property “before the taking” [ORC 163.59(D), OAC 5501:2-5-06(C)(2) and 49 CFR 24.103 (b)].

4000.08 Conflict of Interest

A. No appraiser or reviewer shall have a conflict of interest:

1. No appraiser or a reviewer of an appraisal and no preparer of a waiver valuation or reviewer of a waiver valuation shall have any interest, direct or indirect, in the real property being valued by the acquiring agency [49 CFR 24.102(n) Conflict of interest; 23 CFR 1.33 Conflicts of interest; OAC 5501:2-5-06(B)(14)].

2. No person shall improperly influence or coerce an appraiser, review appraiser or preparer of a waiver valuation or reviewer of a waiver valuation [49 CFR 24.102(n)].

   a. The purpose of any valuation function is to provide an unbiased and adequately supported opinion of value to the acquiring agency so that informed decisions can be made and a fair offer made to the property owner. Fair compensation is jeopardized when the appraisal process becomes biased due to improper influence or coercion of an appraiser or reviewer.
b. Steering, directing, or any other improper influences upon the value conclusions of an appraiser and/or review appraiser is not permitted.

i. Valuations are opinions and may only be challenged for valid reasons. Failure to support a conclusion may be a valid reason for a challenge.

ii. Compensation to an owner must be based upon fair market value. Therefore, appraisals and/or reviews that are legitimately deficient should be challenged to compliance with acceptable procedures outlined in this Manual.

3. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work; [49 CFR 24.102(n) Conflict of interest; OAC 5501:2-5-06(B)(14)(b)].

4. No appraiser or reviewer of an appraisal or preparer of a waiver valuation or reviewer of a waiver valuation shall act as a negotiator for real property which that person has appraised if the FMVE amount is greater than $10,000.

a. It is not a conflict of interest to have the same person both appraise (or review the appraisal) or prepare a waiver valuation (or review the waiver valuation) and negotiate an acquisition if the FMVE amount is $10,000, or less. The amount of an administrative settlement does not affect this procedure.

b. This procedure is based on 49 CFR 24.102(n) Conflict of interest and OAC 5501:2-5-06(B)(14)(c).

4000.09 Appraisal Activity to Be Performed By Pre-qualified People

A. Regulation requires qualified people perform appraisal functions:

By regulation, anyone performing an appraisal, appraisal review, waiver valuation or review of the waiver valuation shall be competent and qualified to perform these functions [49 CFR 24.103(d); OAC 5501:2-5-06(C)(4)]. To ensure those performing these functions are competent, ODOT pre qualifies individuals before they can perform any appraisal or appraisal related function. Additionally, because 49 CFR 24.103(d)(2) requires an Agency to utilize a State-Certified Appraiser when a detailed appraisal is prepared by a fee contractor, the Department has divided pre-qualification into two categories: Agency staff and fee consultants.
B. Selection of the appraiser is based upon an individual’s ability to competently perform the appraisal function. Criteria used in making this determination is based on the experience level of the appraiser, the acquiring agency’s past experience with the appraiser, the appraiser’s past responsiveness to appraisal review comments and the appraiser’s knowledge of ODOT’s procedures for eminent domain valuations.

C. Pre-Qualification Requirements for Agency Staff

1. Agency staff are employees of the ODOT or employees of a Local Public Agency (LPA). It is the responsibility of the Appraisal Unit Manager, Office of Real Estate to determine if personnel of the State or local agencies are pre-qualified to perform valuation/appraisal assignments and appraisal review.

2. The Appraisal Unit Manager shall consider everything of merit to determine if an individual is to be pre-qualified. Among these considerations is the past history of the candidate, past educational courses taken, past appraisal or appraisal review experience, the degree of difficulty of past appraisals, the number of past appraisals, professional appraisal designations or certifications and anything else which would show evidence of a staff personnel’s ability to competently perform appraisal and appraisal review assignments.

NOTE: It is not mandatory that pre-qualified District staff appraisers and staff reviewers be certified or licensed as an appraiser by the Division of Real Estate and Professional Licensing, Ohio Department of Commerce.

3. The Appraisal Unit Manager shall document by letter if an applicant is determined to be pre-qualified. This letter is to explain the level of appraisal activity the applicant is pre-qualified to perform (i.e. Value Analysis format up to a Summary R/W Appraisal Report). This letter is to be sent to the applicant, the employing agency or office (District or LPA) and a copy is to be retained by the Appraisal Unit Manager.

4. The Appraisal Unit Manager shall also document by letter if an applicant is determined not to be pre-qualified. This letter is to detail any deficiencies and also recommend any remedial action the applicant may take to alleviate these deficiencies. This letter will be sent to the applicant, the employing agency or office and a copy will be retained by the Unit Manager.

a. The Appraisal Unit Manager shall publish on the Office of Real Estate Website a list of ODOT staff prequalified to perform valuation activities and the level of authority they have been awarded.

5. Evaluation of educational criteria
THE APPRAISAL OPERATING MANUAL

a. ODOT recognizes that appraisal training requirements have been raised nationwide. The following minimum training requirements for pre-qualification for valuation / appraisal and appraisal review authority for agency staff are established. All agency staff that do not currently have any appraisal or appraisal review authority will be required to meet these training standards before authority is granted.

b. The minimum training requirements for valuation / appraisal authority are listed on the following chart:
# PRE-APPROVAL REQUIREMENTS FOR APPRAISAL

<table>
<thead>
<tr>
<th>Authority Type</th>
<th>All Agency Staff (including LPA Staff)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Analysis Authority</td>
<td>Must be a State-Certified Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>1. ODOT Highway Plan Reading (or equivalent)</td>
</tr>
<tr>
<td></td>
<td>2. ODOT Appraisal 101 - Federal &amp; State Acquisition Laws and the ODOT Real Estate Manual Sections 4000 thru 4700.</td>
</tr>
<tr>
<td></td>
<td>3. ODOT Appraisal 102 - Valuation of Simplistic Acquisitions</td>
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<tr>
<td></td>
<td>4. ODOT Appraisal 122 - The ODOT Project Data Book</td>
</tr>
<tr>
<td></td>
<td>5. ODOT Appraisal 105 - Appraisal Review - Introductory Course</td>
</tr>
<tr>
<td>Value Finding Authority</td>
<td>Must be a State-Certified Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>All of the above reference courses for Value Analysis plus</td>
</tr>
<tr>
<td></td>
<td>6. ODOT Appraisal 108 - National 15-hour USPAP Course (or equivalent)</td>
</tr>
<tr>
<td></td>
<td>7. Basic Appraisal Principles</td>
</tr>
<tr>
<td></td>
<td>8. Basic Appraisal Procedures</td>
</tr>
<tr>
<td></td>
<td>9. Real Estate Finance, Statistics, and Valuation Modeling</td>
</tr>
<tr>
<td></td>
<td>10. General Appraiser Site Valuation and Cost Approach</td>
</tr>
<tr>
<td></td>
<td>11. General Appraiser Sales Comparison Approach</td>
</tr>
<tr>
<td>Full Appraisal Authority (All formats)</td>
<td>Must be a State-Certified Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>All of the above reference courses for the Value Finding plus the following courses:</td>
</tr>
<tr>
<td></td>
<td>12. General Appraiser Income Approach/Part 1</td>
</tr>
<tr>
<td></td>
<td>13. General Market Analysis and Highest &amp; Best Use</td>
</tr>
<tr>
<td></td>
<td>14. General Appraiser Income Approach/Part 2</td>
</tr>
<tr>
<td></td>
<td>15. General Appraiser Report Writing &amp; Case Studies</td>
</tr>
<tr>
<td></td>
<td>16. Federal, State &amp; Municipal Fair Housing Law</td>
</tr>
<tr>
<td></td>
<td>17. NHI-Appraisal for Federal-Aid Highway Programs</td>
</tr>
<tr>
<td></td>
<td>18. NHI-Appraisal Review for Federal-Aid Highway Programs</td>
</tr>
<tr>
<td></td>
<td>19. ODOT Appraisal 104 - Summary R/W Appraisal Report</td>
</tr>
</tbody>
</table>

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**Authority Expiration**

Every 24 months - renewal based on proof of qualifying CE courses taken

**Continuing Education**

14 Hours per year w/ USPAP Update every other year

**Note:** Continuing education requirement is intended to be the same as for State-Certified Appraisers in Ohio. Each staff member authorized to perform appraisal or appraisal review functions on behalf of the acquiring agency must satisfactorily complete fourteen classroom hours of continuing education courses within the one year period immediately following the issuance of their initial letter of appraisal or appraisal review authority and every year thereafter. Every other year the staff member must take the USPAP Update course to remain current with changes in the Uniform Standards of Professional Appraisal Practice.

c. The minimum training requirements for pre-qualification for appraisal review authority for agency staff are listed on the following chart:
## Pre-Approval Requirements for Appraisal Review

<table>
<thead>
<tr>
<th>Authority Type</th>
<th>All Agency Staff (including LPA Staff)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Analysis Review Authority</td>
<td>Must be a State-Certified Real Estate Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>1. ODOT Highway Plan Reading (or equivalent)</td>
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<td></td>
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</tr>
<tr>
<td>Value Finding Review Authority</td>
<td>Must be a State-Certified Real Estate Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>All of the above reference courses for VA Review Authority plus the following courses:</td>
</tr>
<tr>
<td></td>
<td>7. Basic Appraisal Principles</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
<td>11. General Appraiser Sales Comparison Approach</td>
</tr>
<tr>
<td>Full Appraisal Review Authority (All formats)</td>
<td>Must be either a State-Certified General Real Estate Appraiser or have attended and successfully completed the following courses:</td>
</tr>
<tr>
<td></td>
<td>All of the above reference courses for VA &amp; VF Review Authority plus the following courses:</td>
</tr>
<tr>
<td></td>
<td>12. General Appraiser Income Approach/Part 1</td>
</tr>
<tr>
<td></td>
<td>13. General Market Analysis and Highest &amp; Best Use</td>
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<td></td>
<td>19. ODOT Appraisal 104 - Summary R/W Appraisal Report</td>
</tr>
<tr>
<td></td>
<td>20. ODOT R/W Proj.Mgmt. 101 - Introductory Overview</td>
</tr>
<tr>
<td>Authority Expiration</td>
<td>Every 24 months - renewal based on proof of qualifying CE courses taken</td>
</tr>
<tr>
<td>Continuing Education</td>
<td>14 Hours per year w/ USPAP Update every other year</td>
</tr>
</tbody>
</table>

Note: Continuing education requirement is intended to be the same as for State-Certified Appraisers in Ohio. Each staff member authorized to perform appraisal or appraisal review functions on behalf of the acquiring agency must satisfactorily complete fourteen classroom hours of continuing education courses within the one year period immediately following the issuance of their initial letter of appraisal or appraisal review authority and every year thereafter. Every other year the staff member must take the USPAP Update course to remain current with changes in the Uniform Standards of Professional Appraisal Practice.

### D. Pre-qualification Requirements for Consultants

1. A consultant shall be pre-qualified to perform appraisal and/or appraisal review and/or waiver valuation prior to being engaged to perform these
services. The pre-qualified list is maintained by the ODOT Office of Consultant Services.

2. Any consultant seeking pre-qualification to perform appraisal or appraisal review must be certified or licensed prior to submitting an application for pre-qualification status [OAC 5501:2-5-06(C)(4) and 49 CFR24.103(d)].

   a. This licensure requirement does not apply for the Value Analysis Report which is performed under the waiver of appraisal provision in ORC 163.59 (C); OAC 5501:2-5-06(B)(3)(a) and 49 CFR 24.102(c).

3. Users of pre-approved fee consultants must be aware of the consultant’s certification limits as imposed in ORC 4763 and which are as follows:

   a. "State-licensed residential real estate appraiser": (Licensed Residential) Residential assignments only, residential is 1 to 4 units. If the assignment is non-complex, the appraiser is limited up to a value of $1,000,000. If the assignment is complex, the appraiser is limited up to a value of $250,000.

   b. "State-certified residential real estate appraiser": (Certified Residential) Residential assignments only, residential is 1 to 4 units. No limit on value.

   c. "State-certified general real estate appraiser" (Certified General): No restrictions on assignments or value, but appraiser must comply with USPAP’s competency provision.

4. Minimum training requirements for pre-qualification for valuation authority for consultants are found on the Office of Consultant Services website:

   http://www.dot.state.oh.us/divisions/Engineering/consultant/pages/default.aspx

**4000.10 Limited Scope Appraisals and Stipulated Values**

A. The use of a stipulated value is not permitted by ODOT. A stipulated value is a non-market value number assigned to the improvements(s) located outside the take area that is obviously not impacted by the acquiring agency’s taking. The appraiser states the value is stipulated and the value of the improvement which is stipulated remains the same before the taking and after the taking.

B. When the agency determines the valuation assignment requires a Summary R/W Appraisal Report (see approved appraisal formats, section 4200 of these procedures), the agency may specify to the appraiser that he may utilize a Limited Scope Appraisal. The specifications by the agency will explain the appraisal will be of the land component of the real estate along with the value of the improvements taken (if any), and will not consider improvements outside the take area.
1. USPAP SR 1-2(e)(v) permits an appraiser to limit the scope of work in an appraisal to a fractional interest, physical segment or partial holding and will not result in a misleading appraisal report if properly disclosed. The comment to this rule indicates that in order to avoid communicating a misleading appraisal, the report has to disclose the existence of improvements on the property, even though the improvements do not have to be included in the valuation.

2. The agency makes the decision to utilize a Limited Scope Appraisal Report, not the appraiser.

3. The agency shall document the use of a Limited Scope Appraisal Report in a letter to the appraiser and the appraiser is required to insert this letter in the appraisal report. This may be included in the Parcel Impact Notes instead.

4. The appraiser is required to disclose the Limited Scope Appraisal in the Extraordinary Assumptions of the Summary R/W Appraisal Report and to comply with the USPAP requirements governing extraordinary assumptions. An example of such a disclosure is as follows:

   The existing structures are far enough removed from the proposed right-of-way to not be affected by the acquisition. To value the improvements would be meaningless and would be a waste of taxpayer’s money. Therefore, for the purpose of reasonable analysis and as the appraisal problem is relatively simple and non-complex, the value of the structures is not included as a part of this appraisal assignment. The market value of the land and those improvements which are in the take area only are considered in the appraisal report. The client was aware of this condition as a part of the assignment. See the letter in the Addenda (or the Parcel Impact Notes) documenting the client’s understanding of this condition.

5. Limited scope appraisal assignments should not be used in the appropriation process. Case law may discredit an appraisal that does not attempt to value the structure(s) because this type of assignment does not properly estimate the value of the whole property before and after the taking. Therefore, when property is to be appropriated, it must be adequately communicated to the Ohio Attorney General’s Office that the original appraisal assignment was limited in scope to consideration of the land and improvements in the take area only.

4000.11 Larger Parcel

A. The appraiser must determine the larger parcel, not the agency. The agency is required to understand the appraiser’s reasoning regarding the determination of the larger parcel and must assure the determination of the larger parcel is reasonable and compliant with legal requirements.
In condemnation appraisal, the larger parcel is valued before the taking and what is left of the larger parcel is valued after the taking. The determination of the larger parcel is a critical component in determining the highest and best use which is the foundation for every opinion of market value. The determination of larger parcel and its highest and best use drives the selection of comparable sales and comparable rentals. Please refer to Real Estate Valuation in Litigation 2nd Edition, by Eaton for a more detailed discussion of the larger parcel concept.

B. The requirements for determining the larger parcel are:

1. Unity of ownership
2. Contiguity
3. Unity of use (Integrated highest and best use)

4000.12 Land Valuation

A. Ohio procedure requires land value be estimated and supported separately from the improvements thereon. The value of the land is to be as if vacant and available for its highest and best use with the preferred land valuation method being the sales comparison approach.

B. Land valuation through the allocation, abstraction or any other method is not regarded to be desirable and should be considered only as a last resort method and must be approved by the District. If methods other than the sales comparison approach are used, they must be supported. The appraiser must document what steps, analyses or investigatory procedures were undertaken to find vacant land sales.

4000.13 Approaches to Value

A. Approaches to Value:

The appraiser is required to utilize the sales comparison approach to estimate compensation when using the Value Analysis Report and the Summary Appraisal Report in a Value Finding Format (RE 90). See section 4200 of these procedures for more information regarding these appraisal formats.

B. All relevant approaches to value must be used by the appraiser when using the Summary R/W Appraisal Report (RE 25-17). The exclusion of any approach to value must be well documented in the report and if not, the review appraiser should not accept the appraisal. The District in its preparation of Parcel Impact Notes is to describe the relevant approaches to value necessary to solve the appraisal problem.
1. Relevant approaches to value are the sales comparison approach, the income approach and the cost approach.

4000.14 Cost Approach

A. An opinion of value based solely upon the cost approach is rarely acceptable unless the property is one that does not normally transfer in the market or is a limited use/special purpose property. For industrial and special purpose properties such as factories, churches, schools, and many government buildings, the cost approach to value is the approach to value which most closely mirrors actions of market participants. When the cost approach is used, the following standards and procedures will apply:

1. The appraiser’s cost new shall be supported by reference to one of the more prominent cost services. If the cost approach is utilized exclusively, the appraiser’s cost new is to be supported by reference to one of the more prominent cost services and supported by contractors’ costs prevailing in the community.

2. Each element of depreciation is to be individually addressed and support shall be consistent with methods currently accepted by the prominent professional teachings. As the value and the complexity of the appraisal problem increases, greater support for depreciation may be warranted.

3. The appraiser’s reference to cost services must be detailed stating page and volume numbers, class of building, etc. and must be included in the addendum for the ODOT - Summary Right-of-Way Appraisal Report. Local costs shall be properly documented by providing the name and address of the contractor(s). All estimates by local contractors must be included in the appraiser’s addendum.

4. The appraiser must provide a cost analysis that shows all pertinent calculations. Adjustments to base costs, ratios and modifiers must be clearly shown.

B. If the cost approach is not used, the appraiser is required to adequately detail his rationale for not using this approach. A simple declaratory statement the cost approach is not appropriate is unacceptable.

4000.15 Sales Comparison Approach

A. Standards

The sales comparison approach is usually the most desirable and applicable approach to value. It is the approach to valuation which most closely mirrors the actions of people in the market and is most acceptable in court. In utilizing this approach, the following standards shall apply:
1. Key to the reliability of this approach is the availability of sales. The appraiser must be aware of the total market in a project area considering all pertinent data and select those sales which have the least number of variables to consider. The appraiser is required to use a sufficient number of sales as a basis of value. If there is a lack of data in the immediate area, the appraiser must broaden the search to find sufficient data in similar neighboring areas. Typically, a minimum of three (3) sales should be used in the appraiser’s direct comparison.

2. The report must include all required data relevant to each comparable sale used as a basis for value. Sales data used to estimate value must be included in the body of the appraisal immediately following the appraiser’s comparison analysis. It must be preceded by a location map precisely locating the sales used. If a Project Data Book has been prepared, data sheets may be copies of the originals that are in the data book.

3. Verification of each sale must occur with a party to the transaction. A description of the comparable sales must include relevant physical, legal and economic factors and must include source and method of financing as required by regulation (OAC 5501:2-5-06(C)(1)(b)(iii).

   a. A party to the transaction is the buyer or the seller. Courthouse records and MLS records are not parties to the transaction.

   b. Appraisal reports using unverified sales or sales not compliant with this standard are not to be accepted.

4. Each sale must be directly compared to the subject discussing all differences between the sale and the subject. For those variables which warrant adjustments, positive or negative adjustments are made in dollar or percentage amounts. Positive or negative lump sum adjustments may be made provided elements of dissimilarity are explained and the adjustments are nominal.

5. ODOT appraisals may reflect quantitative and qualitative adjustments. All adjustments must be supported. Appraisals that rely exclusively upon qualitative analysis with simplistic comparisons and declarative statements that don’t lead the reader to similar conclusions are highly discouraged due to the lack of support for adjustments. While qualitative analysis is an acceptable appraisal technique, appraisers are cautioned to read Chapters 14 and 15 from the Appraisal of Real Estate 13 Edition, pages 315 – 356, and follow the examples shown for trend analysis, comparative analysis and ranking analysis. When used, qualitative adjustments are to be supported. Therefore, an adjustment grid reflecting only qualitative adjustments without detailed explanation for each adjustment is not acceptable.
6. The adjustments represent an understanding of the market. Hence, the appraiser’s explanation/support for most adjustments must make reference to the market and other empirical data which forms the basis for a given adjustment. Where the market is diverse, limited or inconclusive, the appraiser must fully discuss the reasoning for a given adjustment. This explanation is not a simple declarative statement that an adjustment is warranted, but rather sets forth the reasoning/support for the adjustment.

7. Adjustments for market conditions, i.e. time, must be supported in the market. Wherein a general trend will be noted on a project, the appraiser may produce a time trend analysis in the project area. If the market is diverse or inconclusive and the market conditions adjustment is nominal, a brief explanation referring to trends in the market will be sufficient.

8. The sequence of the adjustments should be consistent with standards set by the appraisal profession as a whole. The sequence in which adjustments are applied to the comparable sales is determined by the market data and the appraiser’s analysis of that data.

9. Upon completion of the narrative comparison analysis, the appraiser is to summarize the market analysis in chart form and provide a reconciliation of the value indications and the reasoning for the value conclusion.

10. If the sales comparison approach is not used, the appraiser shall clearly state the reasoning for not using this approach.

B. The Sales Data Sheet

1. The use of sale data sheets detailing each comparable sale used in the appraisal report is mandatory when the sales comparison approach is utilized.

2. Comparable Sales Data Sheet requirements:

   All valuation formats utilizing the sales comparison approach shall base value on sales which are most similar to the subject property. Ohio Administrative Code 5501:2-5-06 (C)(1)(b)(iii) requires “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.”

   These procedures require the following information to be in any data sheet. It is recommended the following template be used. It is acknowledged that appraisers may have data sheets that are different and these sheets may be used so long as
they meet the requirements of these procedures. The minimum standards for data sheets are:

1. County
2. City or Village
3. Township
4. School District (if appropriate)
5. Recording Data: Deed Volume and Page or Official record Number
6. Grantor:
7. Grantee:
8. Date of Transaction (Sale):
9. Date Viewed:
10. Dimensions:
11. Size (state if net or gross, acres or square feet):
12. Topography:
13. Cash Equivalent Sale Price:
14. Unit Price:
15. Type of Instrument (warranty deed, etc.):
16. Location (address or brief legal or physical location description sufficient to direct someone from out of town to the site.):
17. Zoning (include a brief definition of the zone; discuss the land use plan if appropriate):
18. Present Use:
19. Highest and Best Use at Time of Transaction:
20. Type of financing (source and method of financing):
21. Encumbrances (discuss the encumbrance, if any, and how it limits the highest and best use and how it affected the price paid for the comparable sale):
22. Type of improvements (discuss site and building improvements, water/sewerage, paving, number of parking spaces, units, rooms, age, condition. For Sales Data Books, in most situations, use vacant land sales only):
23. Various On-site and off-site utilities (discuss distance to available utilities, particularly water and sewer.
24. Sale Verification:
   Name:
   Relationship to Sale:
   Date Verified
   Telephone Number
   Person Who Verified Sale
   Conditions of Sale (was this an Arm’s length transaction?)
25. Motivation of Parties (Why did grantor sell and grantee buy?):
26. Analysis of Pertinent Information (to include the cash equivalency analysis)
27. Remarks (include tax identifying number, flood zone, map/panel/date, and appropriate topographical features):
28. Property Sketch (sketch does not have to be to scale, but it must be neat, clean, legible, and to proportion. Reproduction from a tax map or Right-of-way map is
acceptable as long as it is legible. All sketches must show a reasonable
representation of the site with dimensions and appropriate improvements that
contribute significantly to the property value (i.e. buildings, parking areas).
Comparable properties used for support of factors such as proximity, access and
so on, are to specifically reference the point which is analyzed in the report (i.e.
distance from R/W, access location and width):
29. Photograph (the photo must be representative of the comparable sale property).
There must be at least one color photograph. The original Project Data Book
should have color photographs; however, large properties may be shown by large
black and white aerial photos.

4000.16 Income Approach

A. The income approach is applicable to properties which are capable of generating an
income stream and which are bought and sold on the basis of income. Properties such
as commercial, retail, multi-family, apartment, office, and light industrial type uses
fall into this category,

1. These procedures require the appraiser to support each part of the income
approach in enough detail to allow readers and users of the report to understand
how the component parts were derived.

2. Discounted cash flows generated by various software designers are not to be used
unless readers and users of the report have the ability to understand or duplicate
the components parts to ensure accuracy and an adequate understanding of how
the component parts were derived. Additionally, the appraiser must support his
conclusion for each part of a discount cash flow analysis.

3. Direct capitalization is the most easily understood income approach method.

4. An income approach is based upon the market rent a property may generate. This
rent is based on comparable rental properties and these comparable properties
must be supported by the use of rental data sheets in the appraisal report. Rental
location maps are also required.

B. If the income approach is not used, the appraiser is required to adequately detail his
rationale for not using this approach. A simple declaratory statement the income
approach is not appropriate is unacceptable. The review appraiser must verify the
appropriateness of not using the income approach on any property that is generating
an income stream. If the income approach is appropriate and not used, the reviewer
must reject the report.
**Items of Special Appraisal Treatment**

**A. Uneconomic remnants**

1. An uneconomic remnant may only be declared by the acquiring agency and results from a partial taking leaving a residue that has been determined by the agency to have little or no value or utility to the owner. The regulations governing uneconomic remnants are OAC 5501:2-5-01(B)(28), 5501:2-5-06(B)(11) and 49CFR 24.2(a)(27).

2. When it has been determined that the residue is an uneconomic remnant during the plan review stage of a project, the parcel is given the suffix “E” on the right-of-way plans. The appraiser’s responsibility is to provide a supported before and after appraisal. The “E” designation is not a concern for the appraiser and is not to appear in the appraisal report. Final determination regarding whether a parcel is “uneconomic” is made after a “before and after analysis” is performed and the review appraiser recommends a residue as being uneconomic and the District establishes FMVE, thereby, accepting the reviewer’s recommendation. More information regarding uneconomic remnants may be found in section 5300 of the Real Estate Manual.

3. See sections 4300 of these procedures for more detail about how the reviewer documents his recommendation of uneconomic remnant on the RE 22.

**B. Mineral Rights**

1. Mineral rights are subsurface rights and are appraised as a part of the whole as are all fee simple takings unless they are specifically excluded in the acquisition instrument. Where mineral rights are to be excluded from the taking, the appraiser shall be instructed as to the rights to be appraised and shall reflect this instruction in the report under “Interest Appraised” and the “Special Conditions” section of the report. The appraisal of mineral rights (solid, liquid and gas) for the most part, is considered to be a specialized appraisal problem.

**C. Oil & Gas Wells**

1. Once an oil or gas well has been identified on a project it is imperative to discover the ODNR permit number of the well. All wells in Ohio have been issued an ODNR permit number (even wells that were drilled prior to the implementation of the record keeping laws at ODNR). All well operators are required to submit annual production logs. The basis for determining the value of a well will likely be those production logs. An oil well valuation expert will be required to provide a value estimate for the well. It is imperative that the title of the well be thoroughly researched. The appraiser must determine what interests in the well the underlying fee holder may still retain.
2. A typical drilling unit varies between 25 and 40 acres. Wells that will be subjected to the “fracking process” may need 160 acres for a drilling unit. A drilling unit is often created by combining lease agreements among several contiguous surface property owners. The importance of researching the oil well leases cannot be overstated.

3. An oil and/or gas well is often subject to a subsurface land lease from the fee owner to the drilling company. The terms of many of these leases provides the fee owner royalty income from the sale of the oil or gas product. When acquiring these wells, the appraiser must be aware of the entire ownership interest and the terms of the leases.

D. Signs

1. Signs that are to be acquired must be addressed by the District. The District must determine if the signs are real property or personal property and it must be determined who owns the signs. Signs that are determined to be real property are valued in the appraisal report. Signs determined to be personality are not valued in the appraisal and are moved as a relocation benefit. The RE 95 process ensures compliance with this procedure. Appraisers are to be provided completed RE 95’s prior to being engaged to perform the appraisal function. More information regarding the RE 95 process is found in section 5202.01 of the Real Estate Manual.

a. The agency may engage the appraiser to prepare an RE 95. However, this is a non-appraisal function and the appraiser is required to comply with procedures governing the RE 95 process. The appraiser may be engaged to perform an appraisal of the property after the RE 95 is completed and accepted by the District. For more detail, reference section 4000.27(O) of these procedures.

Sign bases, structures and sign leases may have multiple ownership and tenant issues creating specialized appraisal problems. Guidance may be required to value the improvements.

2. Outdoor advertising devices (different from on-premise signs), owned by outdoor advertising companies, including painted bulletins, poster panels, painted surfaces, etc., create specialized appraisal problems and guidance may be required.

3. Contributory value can be estimated either from local cost data and/or a cost service. It is the appraiser’s responsibility to estimate depreciation and the depreciated cost of the sign, not the local contractor.
4. Signs determined to be real property, but owned by a tenant require an estimate of salvage value and contributory value as required by law [ORC 163.60 (B) and OAC 5501:2-5-06 (E)].

E. Railroad Property

1. A distinction is made between operating and non-operating railroad lands.

2. Operating right-of-way is property currently used in conjunction with the operation of a railroad such as mainline tracks, switching yards, etc. These properties are associated with the railway corridor. Generally, all acquisitions from a rail corridor will not adversely affect the corridor and occupancy onto the corridor is obtained by a Railroad Construction Agreement. When it is determined that the acquisition will not adversely affect the corridor, the valuation problem becomes simplistic and the appraiser shall value the part taken based on “at the fence” valuation methodology. The District shall document the valuation problem and scope of appraisal by use of the Parcel Impact Notes.

3. Non-operating railroad property is owned by the railroad corporation and is not needed for a corridor. The agency may need to talk with the owner of the railroad corporation before a determination can be made about a property being non-operating railroad. Non-operating railroad property that is being acquired shall be valued based on its highest and best use. “At the fence” valuation methodology is generally not appropriate to value non-operating railroad property that has development potential and an independent highest and best use separate from a corridor. The agency shall determine the complexity of the valuation problem and scope of the appraisal in the Parcel Impact Notes and shall select the appropriate valuation format for the problem.

F. Vacation of Rights of Way

1. Vacation of rights of way is not an acquisition of property rights, but is a disposal of property rights. An appraisal may or may not be required. For more information, reference section 7304 of the Property Management section of the Real Estate Manual.

G. Temporary Easements

1. Temporary easements needed for construction purposes (T’s) are acquired subject to ODOT’s power of eminent domain. Temporary takings are generally for short periods of time, 6 months to 3 years, and compensation is generally based on the rental of the property for the duration of the T.

2. The land rental may be based on the following format:
3. Compensation for the T is based on the value of the residue and not the property before the taking.

4. The compensation estimate adds the value of the T to the difference between the before and after.

\[
\text{Before Value} - \text{After Value} + \text{Compensation for T} = \text{Total Compensation}
\]

5. When the impact of a temporary easement extends beyond the boundaries of the T parcel, a simple land rent calculation may be inappropriate. If a T is needed for the removal of a structure, the T taking may result in an impact to the residue which extends beyond the boundaries of the temporary easement. The proper estimate of compensation for the T must take into account the impact the T has on the entire residue property. For the situation involving a structure, the value of the structure removed must be included in the compensation for the T Parcel.

Another example might be if the temporary easement were to occupy all of the parking spaces for a commercial establishment for a set period of time. The impact of the T may extend to the commercial structure that relies on the parking spaces to support the rental income. The loss of those parking spaces may result in a reduction in rental income for the duration of the T parcel. The proper estimate of compensation for the T would be the net rent loss for the duration of the T instead of a simple land rent calculation.

6. Occasionally, a T acquisition may create a slope or some other post construction feature that perpetually impacts the residue property. These are unusual situations and guidance and direction from the Appraisal Unit should be obtained.

H. Fence

1. The acquisition of fencing outside of existing right of way is paid for based on its contributory value. ODOT does not pay compensation for fencing located in
existing right of way or for fencing owned by ODOT that may be used by the abutting owner.

2. In the event the appraiser encounters a fenced-in area and there is reason to believe the private fence is retaining livestock, or is a high security fence, or is a boundary fence for a schoolyard/day care/residential yard, the appraiser must examine all plan notes to determine if replacement of this fence was included as a construction item. The appraiser is expected to include compensation to maintain security to the residue property during construction as well as after the project is completed if it is not mentioned in the plan notes. The private fence must be intact and have the ability to function as intended. Questions regarding disputed interpretations of the purpose and intended use of the private fencing or its ability to conform to the intended use are to be directed to the District manager.

3. Encroaching fence: In those instances where a private fence encroaches into the right-of-way and that fence is a boundary fence for a schoolyard/day care/residential yard, or serves to hold livestock, the removal of the fence may jeopardize the safety of the motoring public. The appraiser shall seek direction from the District before completing the appraisal to determine the District’s direction regarding the fence.

I. Parking Lots

1. The appraiser is required to determine the number of parking spaces that exist on the property before the taking, the number that are legally required for the property, and determine if the structure is currently in compliance with parking/zoning code or if it is non-conforming. This leads to determinations of legal non-conforming uses and illegal uses. The appraiser is to analyze the parking situation for the comparable properties as well. If parking is being severely impacted by a project, the District may want to consider hiring a parking lot expert to analyze traffic flow and space usage.

J. Damages

1. The appraiser does not “estimate” or appraise damages. Damages are the result of properly supported before and after analysis. A discussion of damages is found in section 4400.44.

K. Benefits

1. Benefits are classified into general benefits and special benefits. Because the discussion of benefits can include project enhancement, anytime an appraiser suspects benefits may accrue to a property, he should seek guidance from the District (who may need to contact the Attorney General’s Office) before proceeding. A discussion of benefits is found in section 4400.37.
L. Proximity Damage Studies

1. Proximity studies may be used by appraisers to support an adjustment to the sales.

2. Appraisal reports shall not be recommended when the appraiser estimates the value of the residue by using the same sales from the before analysis and applies an unsupported across the board proximity adjustment to these sales.

   a. This practice is not permitted because ODOT requires the appraiser to compare each local sale to the proximity study individually and determine the correct adjustment from direct comparison. If local sales do not exist, then the appraiser is required to expand the search for relevant data. If a proximity study is used, the appraiser must have personal knowledge of the data, how the data was collected and all pertinent information about the area / neighborhoods that the data were gathered from. The appraiser must discuss at length why the data may have any relevance to the project and parcel being appraised.

M. Unacceptable Damage Studies

1. The Department does not accept appraisal reports which exclusively use damage studies to support any adverse effect to the residue property if these studies do not reflect the market where the subject is located. An appraiser utilizing a damage study prepared by another, at a different geographical location, at a time not reflective of current market conditions and reflecting a damage scenario different from what is affecting the residue property has based the valuation conclusion on an unacceptable analysis. The use of such studies which are not independently completed and which do not measure the impact of damage from the local market place results in compensation which is not market supported.

2. It is acknowledged the market is not perfect and comparable sales may not exist in the specific market where the subject property is located. The Department does expect the appraiser to reasonably expand the search to competitive areas until it can be accurately concluded a market does or does not exist in the general area to reflect the situation of the property either in the before or the after. If a lack of comparable properties truly exists in the general market area, the appraiser may utilize other damage studies if they reflect the situation of the subject property. However, if such a study is used it must be analyzed in the appraisal report detailing the strengths and weaknesses of the study, the date of the study, the author of the study and how the study relates to the situation of the subject. Damage studies must be reflective of the subject’s market and properly analyze the same damage situation which affects the subject property.
N. Timber Valuation

1. A separate timber valuation is not recommended. A timber "cruise" would lead to a conclusion of value for the timber over and above the value of the land and there is a potential for the sum of the parts (land plus timber) to be greater than the value of the whole property. This is a violation of The Unit Rule. The Unit Rule is explained in the 2000 version of "Uniform Standards for Federal Land Acquisitions" Guide, Paragraph B-13, Pages 53 through 55.

The appraiser should look for sales of property having marketable timber and compare those sales to the subject property.

O. The RE 95

1. The RE 95 is a form used by ODOT to determine ownership of improvements within the take area and to classify these improvements into real property or personal property. Improvements classified as real property are considered in the appraisal and an allocation of compensation is made for these improvements. Personal property considered in the value of the property before or after the taking must be itemized in the appraisal report. Personal property not included in the appraisal report is generally moved to a replacement site as a relocation benefit.

2. Improvements classified as real property, but determined to be owned by a tenant will require an estimate of salvage value. Who performs the salvage value estimate is a function of project management, but any appraiser that is assigned this task must be cognizant of requirements in USPAP for competency including SR 1; development of an opinion of value, and SR 2; reporting of an opinion of value. See Section 5311.02 of the Real Estate Manual for more guidance on salvage value. Compensation must be allocated between ownership interests and a separate offer made to the tenant owner [ORC 163.60 (B)]. Because of this legal requirement, items of real property owned by the tenant must be identified in the appraisal and an allocation of the FMVE is made to these improvements. Household belongings that are personal property are not valued. Only personal property contributing to the property value is itemized in the appraisal report [OAC 5501:2-5-06(C)(1)(b)(i)].

3. The procedures for the RE 95 process are in Section 5202.01 of the Real Estate Manual.

4. People performing the appraisal or appraisal review process may be requested to perform the RE 95 process. When this circumstance occurs, the following process applies:
a. This is not an appraisal function, therefore,

b. The RE 95 shall not be completed as a part of or during the appraisal assignment, but instead must be completed prior to the initiation of the appraisal assignment.

c. Prior to the appraisal assignment, the appraiser shall be provided a completed RE 95 [Real Estate Manual Section 4100.02(F)(6)].

P. Owner Retention

1. An owner may request to keep (retain) an improvement within a take area. The appraiser may find out about an owner’s desire to retain items during the accompaniment process. The appraiser shall immediately inform the District of the owner’s desire to retain improvements.

2. Regulations governing owner retention are OAC 5501:2-5-06(C)(3) and 49 CFR 24.103(c).

3. The procedures for the owner retention process are outlined in Section 5311 of the Real Estate Manual.

Q. Tenant-Owned Improvements Considered Real Property

1. Regulations governing tenant-owned items are found in OAC 5501:2-5-06(E) and 49 CFR 24.105. These regulations prescribe a certain process to acquire improvements classified as real property that are owned by the tenant. The procedures for implementing this regulation are found in Section 5302 of the Real Estate Manual.

2. This category of tenant-owned improvements requires the appraiser to ignore ownership and estimate the contributory value of the improvement. Additionally, the acquiring agency is required to estimate the salvage value of the improvement.

3. The tenant will be made an offer that is the greater of either the contributory value or the salvage value of the tenant-owned improvement.

R. Salvage Value

1. Estimates of Salvage Value are required for the owner retention process and the tenant-owned improvement process. Since a Salvage Value is an opinion of value, an appraiser assigned to perform this function is reminded to also comply with the appropriate standards in USPAP including SR1, SR2 and the Competency Rule.
2. Regulations governing salvage value are OAC 5501:2-5-01(B)(25) and 49 CFR 24.2 (23). This regulation is implemented into procedure in Section 5311.04 of the Real Estate Manual.

S. Acquisitions Impacting Residential Garages

1. ORC 163.05(G) requires the District to acquire the entirety of a property containing a residential home when:
   a. the acquisition removes a garage, and
   b. there is not sufficient land on the residue for a replacement garage to be lawfully or practically attached.

2. The District does not have to acquire the entire property if, at the discretion of the owner, the owner waives the requirement to purchase the entire property.

3. This regulation is implemented into procedure in Section 5321 of the Real Estate Manual.
   a. ODOT procedure requires the property to have a full before and after appraisal utilizing the RE 25-17 Summary R/W Appraisal Report as the acquiring agency will make two offers to the property owner:
      i. An offer to acquire the whole property; and,
      ii. An offer to acquire only the part of the property needed for the project.

T. Manifest Injury Rule

1. ORC 163.06(B) requires the District to take the whole structure if only a part of the structure is needed for a project if the remaining structure suffers a manifest injury.

U. Life Estates

1. Residential properties may be occupied by people having life estates encumbering the property. When the acquisition process takes the home causing the displacement of the life estate tenant, the appraiser may be required to estimate compensation for the life tenancy which would be used in the relocation process.

2. The life estate procedures are detailed in Section 5323 of the Real Estate Manual.