CHAPTER FOUR

PROPERTY VALUATION

MAINE RIGHT-OF-WAY MANUAL

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CHAPTER FOUR
PROPERTY VALUATION

4-1 SCOPE, ORGANIZATION AND MANAGEMENT

4-1.01 Purpose and Need for the Valuation Function

The Maine Constitution, Article 1 Section 21, states: "Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it." Additionally, the Fifth Amendment to the United States Constitution reads, in part, "No person shall…be deprived of…property without due process of law; nor shall private property be taken for public use without just compensation." The valuation process is the means by which MaineDOT assures compliance with the constitutional right to just compensation.

Valuation requirements are further codified in the ***Maine Revised Statutes***, including, "When property is to be purchased or taken over and held for the State, the department shall first cause the property or interest in the property to be acquired, to be appraised by one or more appraisers." The same statute goes on to modify this requirement by stating, "The department may prescribe a procedure to waive the appraisal in cases involving the sale or donation of property. The department may prescribe procedures to waive the appraisal in cases in which the fair market value is estimated at $15,000 or less and valuation can be established by another method. In any case in which the department and the owner do not reach an agreement about the value of property or the interest in property to be acquired, or if the owner requests, the department shall perform an appraisal" (23 ***MRSA*** 153-B, 2).

Where federal funds are used in any phase of a project, valuation and appraisal review activities must be in accordance with 49 ***CFR*** Part 24.

Both the U.S and Maine Constitutions require that when private property is taken for public use, property owners are entitled to receive Just Compensation. Because of the sovereign government's power of eminent domain, the payment of just compensation is required whether the property is condemned or acquired by deed.

The measurement of Just Compensation is typically held to be the fair market value of the real estate acquired. In the case of a partial taking Just Compensation is the difference in the fair market value of the impacted property immediately before and immediately after the taking, taking into account the contributory value of the part taken as improved, any severance damage, or loss in value to the remainder, and/or any special benefits, or increases in value to the remainder. In the case of a total taking, Just Compensation is typically held to be the fair market value of the entire property. In theory, the value of the real estate remaining after taking plus just compensation is equivalent to the value of the real estate before the taking.

The Director of the Property Office is charged with the responsibility of determining Just Compensation. That determination is typically based on the value derived by the Department's

waiver valuation process or the Department's approved appraisal. The process which governs the development of the approved appraisal is the subject of this chapter. Because there is no parity between bargaining positions between the State and the Property Owner, the State is obligated by law to offer no less than the approved appraisal as its determination of Just Compensation.

4-1.02 Special Benefits

Maine, law (***MRSA*** 23.1542F), requires that special benefits be set off against severance damages but not against the value of the property acquired. Special benefits occur when the property remaining after a partial acquisition is enhanced by reason of the public improvement in a way that is not shared by other property affected by the project. An example would be an acquisition from a single ownership for an Interstate highway interchange. The project location is totally within one farm ownership. Three of four remainders are at interchange ramp quadrants and are converted from a highest and best use as farmland to motel and restaurant locations. The enhancement value would be set off against damages occurring to a fourth remainder. However, the property owner would be paid the full value of the land acquired for the interchange.

4-1.03 Role of the Property Valuation Function

MaineDOT carries out its obligation to pay just compensation by establishing the fair market value of every property to be acquired for transportation projects. The fair market value constitutes MaineDOT's estimate of just compensation and is the basis of all offers and payments to owners pursuant to the exercise of its eminent domain authority. The valuation process that MaineDOT uses to establish fair market value fulfills both Constitutional and Statutory obligations. In its quality and thoroughness, MaineDOT's valuation process also demonstrates fair and equitable treatment for Maine citizens who are required to relinquish property for transportation projects that benefit the general public.

MaineDOT's valuation process consists of several formats and levels of documentation that correspond to the type of property being acquired and the complexity of the acquisition. The multi-format structure, along with the process of Appraisal review, insures that the fair market value offer to each property owner is fully supported by market information and analysis that is relevant to the property and the effect of the acquisition. The process also insures that property acquisition is expeditious and that the cost of administering the program is reasonable.

The following valuation formats are used to establish value:

1. Waiver Valuation Procedure,
2. Value Finding Format
3. Short Format Appraisal, and
4. Detailed Narrative Report.

The Waiver Valuation Procedure is the subject of Chapter 3 of this *Manual*. The Detailed Narrative Appraisal, the Short Form Format Appraisal and the Value Finding Format are discussed in Section 4-2.

Appraisal review is a critical component in the process of establishing fair market value. Every property appraisal is reviewed for factual accuracy, adequacy of documentation, and support for judgment by a qualified Review Appraiser. The Review Appraiser has responsibility for determining fair market value from all value information submitted approving the appraisal, and making a recommendation to the Director of the Property Office to serve as a basis for the Just Compensation determination. The Review Appraiser function is discussed in Section 4-5.

4-1.04 Types of Property Valuation Services

As discussed above, the primary role of valuation in MaineDOT is to establish the fair market value of property that will be acquired for transportation projects in Maine. MaineDOT's property valuation function has the following additional important value-related roles and purposes:

1. Develop project right of way cost estimates.
2. Perform appraisal review services.
3. Advise on proposed administrative settlements.
4. Provide expert testimony before the State Claims Commission.
5. Assign, oversee and evaluate Consultant Appraisal services.
6. Value uneconomic remnants.
7. Advise on fair rents for MaineDOT property under management.
8. Determine market rents and certain relocation benefits.
9. Advise on valuation for the disposal of surplus property.

4-1.05 Appraisal Defined

The term "appraisal" is defined in Section 101(13) of the ***Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*** **(*The Uniform Act*)** as:

> A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

4-1.06 Fair Market Value Defined

For the purpose of valuing the property, including land and any building, structure and improvement thereon, acquired under the power of Eminent Domain by The Maine Department of Transportation, *Fair Market Value* is the amount of money (cash or its equivalent) which, as of the date of valuation:

1. An informed and knowledgeable purchaser willing, but not obligated, to buy the property would pay to an informed and knowledgeable owner willing, but not obligated, to sell it. ,
2. Taking into consideration all uses for which the property is suited and might in reason be applied; including, but not limited to the present use or highest and best available use taking into consideration the existing zoning or other restrictions upon use and the reasonable probability of a change in those restrictions.
3. Allowing a reasonable period of time to effectuate such sale.
4. Disregarding any decrease or increase in fair market value of such real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner.
5. Disregarding the fact that the owner might not want to part with the land because of its special adaptability to the owner's use.
6. Disregarding the fact that the taker needs the land because of its peculiar fitness for its purpose.
7. Disregarding any "gain to the taker", i.e., not giving consideration to the special use of the condemner as against others who may not possess the right of Eminent Domain.
8. Including the value of any buildings, structures, or improvements located upon the land, which are required to be removed or which it is determined will be adversely affected by the use to which such real property will be put, regardless of whether such building, structure or improvement is classified as real or personal property under local law. Such buildings, structures and improvements are valued based upon their contribution to the fair market value of the real property to be acquired or their value for removal from the real property (salvage value), whichever is greater. This includes tenant owned buildings, structures, or improvements, even if the tenant has a right or obligation to remove the building, structures, or improvements at the expiration of the lease term and even if classified as personal property under local law.
9. Fair market value, based upon adequate recent comparable sales and offering data is usually the measure of just compensation.

4-1.07 <u>Appraiser Qualifications</u>

The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignment, and their qualifications consistent with those necessary to complete the required scope of work. As a measure of the level of qualifications, the Chief and Senior Property Officers will consider the following:

- **Competency:** The appraiser must have the knowledge and experience to identify the appraisal problem and to complete the assignment. If the appraiser lacks the knowledge and experience, it should be disclosed and the methods for gaining the requisite knowledge to complete the assignment discussed and documented.
- **Experience:** General appraisal and valuation related experience will be considered, including experience reading plans and completing prospective appraisals. The appraiser should be able to demonstrate experience in solving similar appraisal problems and appraising similar properties as in the appraisal assignment..
- **Education:** Post secondary education, and college degrees in real estate and related fields will be considered.
- **Training:** Specific professional courses and seminars in real estate or real estate appraisal offered by various professional organizations will be considered in determining appraiser qualifications. Particularly important are courses in appraisal for condemnation, for litigation or the appraisal of partial interests.
- **Other:** Certifications, licenses, professional designations and memberships in professional organizations are also considerations in evaluating an appraiser's qualifications.
- **Class Specifications:** Specific requirements are also found in MaineDOT class specification descriptions for Assistant Property Officer (Right of Way Appraiser I); Property Officer (Right of Way Appraiser II) ; and Senior Property Officer (Right of Way Appraiser III).

All Consultant Appraisers assigned to perform appraisals will be certified or licensed by the Maine Department of Professional and Financial Regulation – Office of Licensing and Registration as follows:

1. Certified General Appraiser – May appraise real property of all types.

2. Certified Residential Appraiser – May only appraise residential real estate or real property of one to four units or land related to that property without regard to transaction value or complexity when a net income capitalization analysis is not required.

3. Licensed Real Property Appraiser – May appraise only residential property of one to four units having a transaction value of less than $1,000,000.

4-1.08 <u>Organizational Placement</u>

The valuation function operates under the Bureau of Project Development Division of MaineDOT. The Director of the Property Office and the Chief Property Officer direct the function. Appraisal personnel (Appraisers {Property Officers} and Review Appraisers {Senior Property Officers} are assigned within MaineDOT's Highway,Bridge, and Multimodal Programs. Personnel are further assigned to project teams within each program.

4-1.09 Controlling Laws and Regulations

Real property valuation is subject to the following Federal and State legal authorities:

1. U.S. Constitution, 5th and 14th Amendments;

2. Maine State Constitution, Article 1 Section 21;

3. 23 ***MRSA*** III.2 Section 153-B(2);

4. ***Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*** (as amended 1987), Title II;

5. 23 ***CFR*** 710; and

6. 49 ***CFR*** 24.

In addition to the above regulations, operation of the valuation function is subject to civil rights laws pertaining to all Departmental activities that involve employment, contracting for services and providing program services and benefits to the public.

4-1.10 Contracting for Valuation Services

MaineDOT valuation services are performed both by staff employees and by private consultant (fee) personnel. Fully qualified Staff Appraisers and Review Appraisers provide valuation and related services for right of way acquisition on the MaineDOT capital improvement program and also manage contracted valuation services. Consultant Appraisers are employed as required to meet workload needs of the transportation capital program or to provide specialized expertise that is not available within the Department.

Contracting right of way services is fully discussed in Chapter 9. The following is a summary of requirements that are pertinent to appraisal and other property valuation services:

4-1.10(a) Contracted Services

Services that may be contracted are:

1. Preparation of Full Narrative Appraisals, including Before and After Reports;

2. Preparation of Short Format Appraisals;

3. Expert testimony;

4. Project right of way cost estimates;

5. Preparation of the project data package; and

6. Supplemental appraisal services relating to changes in project scope, parcel ownership, unanticipated property impacts or the need to update valuations.

4-1.10(b) Contracting Modes

The above services may be contracted in the following modes:

1. Individual parcel or project valuation assignment;

2. Contract for valuation services for a specific period of time on a call basis;

3. Combined with other functions such as titles, acquisition and relocation for a combined “turnkey” right of way service contract; or

4. Placed in an engineering design or design/build contract for a specific project.

4-1.10(c) Fee Appraisal Agreement

Appraisal services on a project or parcel basis will be contracted by executing an Appraisal Agreement. The appraisal assignments will be listed by parcel number and owner on the Schedule of Appraisals, which will be referenced by and attached to the Appraisal Agreement.

4-1.10(d) The Appraisal Register

The Appraisal Register is the list of Consultant Appraisers who have been pre-qualified to work for MaineDOT, in accordance with MaineDOT Consultant Procedures. Periodically, on a need basis, the Department will advertise for Appraisers to submit qualifications and an application for inclusion on the Register. Appraisers may apply for inclusion on the list at any time at their own initiative.

The Property Office is responsible for maintaining the Appraisal Register. The Chief Property Officer will review the list and new applications and then recommend additions or deletions to the Register. The Register will be updated at least once every 2 years. Applicants to the Appraisal Register will be advised in writing of the disposition of their applications. Persons who are deleted from the Register will also be advised in writing if a current mailing address is known. The Chief Property Officer will make a record of its proceedings and decisions.

The Chief Property Officer will determine the required content of an application for the Register. The Chief Property Officer will periodically confer with the Contract Procurement Office (CPO) to determine ways to increase applications from qualified contract appraisers who are minorities or who qualify as a Disadvantaged Business Enterprise (DBE).

4-1.11 Quality Assurance

Quality assurance in the valuation function is an inclusive process of evaluating performance and developing ways to continuously improve the accomplishment of program goals. Quality assurance is a responsibility that is shared by all persons and administrative levels involved in the valuation function. The Property Office will establish goals and provide policy guidance for improving the level of quality in the valuation process. The Chief Property Officer will propose and coordinate quality assurance activities that will involve all valuation staff, which are scaled to the staff resources and current project workload. All professional staff will perform specific quality assurance tasks focusing on one or more of the factors listed below:

1. Effective coordination with Project Team Members responsible for other project development activities;

2. Timely assignment of Staff and Consultant Appraisers;

3. Assessment of appraisal-related training needs of staff personnel;

4. Identification of critical path tasks involving appraisals and valuation to eliminate barriers to timely completion of these activities;

5. Evaluation of Consultant Appraiser performance concerning quality of documentation, analysis of data, and timely delivery of appraisal products;

6. Effective performance evaluation and feedback of staff valuation personnel;

7. Development and understanding of valuation policy, practices and agency forms that support the effective and expeditious acquisition of right of way; and

8. Participation in evaluations (including 360-degree evaluations).

Quality assurance activities and tasks performed by professional staff will be reported in a manner outlined in Chapter 10 of this Manual. The goal is to continuously improve the performance level of valuation activities (e.g., appraisals, appraisal review, estimates) in terms of cost efficiency, timeliness and quality of work products. MaineDOT's continuing refinement of quality assurance includes the development of performance standards and evaluation methods to establish goals and measure progress in meeting goals.

4-1.11(a) Evaluation

On completion of an appraisal, the Appraiser's performance will be evaluated by the Review Appraiser or the Senior Property Officer. The MaineDOT Consultant Evaluation Form will be used for this purpose for both staff and consultant appraisers. A copy of the completed Form

will be provided to the Appraiser and a copy will be routed to the Chief Property Officer. The evaluations will be considered in completing staff appraiser's annual performance evaluations and in determining whether to re-employ consultant appraisers.

4-1.12 Scope of Work

The Scope of Work concept is coming into wide acceptance in the appraisal profession. Scope of work is adopted by the Uniform Act Final Rule effective Feb. 3, 2005 and is taking a more prominent role in the Uniform Standards of Professional Appraisal Practice, (USPAP).
Scope of work is defined as "the type and extent of research and analysis in an assignment". An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. Scope of work includes but is not limited to

- The extent to which the property is identified,
- The extent to which tangible property is inspected,
- The type and extent of data researched,
- The type and extent of analysis applied to arrive at opinions or conclusions.

Scope of work is a written statement agreed upon by the appraiser and MaineDOT's Senior Property Officer. The scope describes the work that the appraiser is assigned to do and which reporting format as described in Section 4-2 is appropriate. The scope of work should be developed cooperatively by the appraiser and the reviewing appraiser or Senior Property Officer prior to the appraiser beginning the assignment and define the general parameters of the work. The statement may be updated as necessary as the work progresses.

MaineDOT uses three appraisal formats in developing property appraisals. A description of each of these formats may be found in section 4-2. Each parcel should be initially evaluated by the review appraiser to determine scope of work and appraisal format. The review appraiser and appraiser can discuss the initial evaluation and determine if any adjustments are necessary. When the appraisal challenges on all the parcels on the project are similar, a single scope of work for the project is appropriate. Where one or more parcels have unique issues or present complex valuation problems, scopes of work based on the specific parcel issues should be developed.

Below are the Federal guidelines for a Scope of Work .For more information of Scope of Work requirements, refer to 49 CFR 24.103(a) (1) thru (5):

SCOPE OF WORK: The appraiser must, at a minimum:

1. Provide an appraisal meeting the agency's definition of an appraisal. *The definition of appraisal should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual. For Federal-aid projects the definition must be compatible with the definition found at 49 CFR 24.2(a)(3).*
2. Afford the property owner or the owner's designated representative the opportunity to accompany the appraiser on the inspection of the property. *How this is to be handled should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
3. Perform an inspection of the subject property. *This should be specified in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.* The inspection should be appropriate for the appraisal problem, and the Scope of Work should address:

- The extent of the inspection and description of the neighborhood and proposed project area,
- The extent of the subject property inspection, including interior and exterior areas,
- The level of detail of the description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, the remaining property),

4. In the appraisal report, include a sketch of the property and provide the location and dimensions of any improvements. *Also, it should include adequate photographs of the subject property and comparable sales and provide location maps of the property and comparable sales as called for in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
5. In the appraisal report, include items required by the acquiring agency, usually including the following list: *This should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual.*
   - The property right(s) to be acquired, e.g., fee simple, easement, etc.,
   - The value being appraised (usually fair market value), and its definition
   - Appraised as if free and clear of contamination (or as specified),
   - The date of the appraisal report and the date of valuation,
   - A realty/personalty report is required per 49 CFR 24.103(a)(2)(i),
   - The known and observed encumbrances, if any,
   - Title information,
   - Location,
   - Zoning,
   - Present use, and
   - At least a 5-year sales history of the property.
6. In the appraisal report, identify the highest and best use. If highest and best use is in question or different from the existing use, provide an appropriate analysis identifying the market-based highest and best use.
7. Present and analyze relevant market information. *Specific requirements for market information should be in the State DOT's FHWA-approved Right-of-Way or Appraisal Manual and should include research, analysis, and verification of comparable sales. Inspection of the comparable sales should also be specified.*
8. In developing and reporting the appraisal, disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project. *If necessary, the appraiser may cite the Jurisdictional Exception or Supplemental Standards Rules under USPAP to ensure compliance with USPAP while following this Uniform Act requirement.*
9. Report his or her analysis, opinions, and conclusions in the appraisal report.

4-2 VALUATION FORMATS

4-2.01 General

MaineDOT's process of determining fair market value includes four levels of valuation that correspond to the complexity of the acquisition. The levels differ in their format and degree of documentation. However, all result in a determination of value that is supported and fairly arrived at and that meets Constitutional obligations as outlined in the Uniform Act, and Maine Statutory standards for just compensation.

In addition to the instructions on valuation formats that are provided in this Section, the Appraiser will be familiar and comply with the guidance on special topics provided in Section 4-3. These provisions apply to valuations performed under all formats and are required by ***Maine Revised Statutes*** and/or Federal law or regulation.

MaineDOT has the responsibility to assure that appraisals are relevant to its program needs and reflect established and commonly accepted Federal and federally-assisted program appraisal practice. At a minimum the appraisal product should comply with the definition of an appraisal in 4-1.05 and the following five requirements:

- An adequate description of the physical characteristics of the property being appraised (and in the case of a partial acquisition an adequate description of the remaining property) including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of the highest and best use, and at least a 5-year sales history of the property.
- All relevant and reliable approaches to value consistent with established Federal and federally assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.
- 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.
- A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any to the real property where appropriate.
- The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

4-2.02 Report Style and Presentation

All reports will be bound in the left margin, with a durable cover. The binding must allow easy removal of individual pages. The cover will be labeled to identify the project and the city or town where it is located. All pages will be numbered consecutively and will indicate the project number, parcel number and owner's name. The location of the property will be identified by street address, or other identifier that will enable the property to be located for field view.

More than one appraisal may be included in one volume. Where a large number of appraisals are submitted on one project, the reports will be submitted in two or more volumes. The Appraiser will submit one original volume and one duplicate volume, each containing original signature and photographs.

The Appraisal Report will be structured in three parts:

1. Part I – Preface;
2. Part II – Description, Analysis and Conclusion; and
3. Part III – Addenda.

Supplemental information that does not bear directly on the valuation may be included as an Appendix. Avoid bulky attachments. It is sufficient to refer to supporting Reports as being available on MaineDOT request.

4-2.03 Value Finding Format

The FHWA encourages agencies to allow use of the Value Finding Appraisal format to reduce appraisal time and costs.

The MaineDOT Value Finding Appraisal may be used only when**:**

The acquiring agency is required to prepare an appraisal even for low value acquisitions, if the acquiring agency has elected not to use the waiver of appraisal provision on the parcel, or the waiver provision has failed to generate a settlement.

The Value Finding Appraisal can be used for simple acquisitions that are of low value and meet the other requirements set forth below.

The acquisition involves only vacant land and/or land with improvements where the impact to the improvements is minor and there is no loss in value to the remainder.

Highest and best use is the present use and is not materially affected by the proposed improvement.

Fair market value can adequately be estimated by the sales comparison approach with only minor adjustments, if any, required.

Damages are so minor they require only a brief explanation or analysis.

This form of appraisal can be used on uncomplicated takings where adequate market data is available and there are no special benefits, nor severance damage accruing to the remainder property other than minor replacement or re-establishment items measurable by the "cost to cure".

Examples of "cost-to-cure" items might be: reconnected piping, replacing septic systems, replacing walks, steps or drives, moving fencing, etc.

Examples of uncomplicated takings might be unimproved lots, strip taking not involving severance damages or benefits, but including minor structures, signs or other land improvements.

Value Findings will be developed by qualified staff appraisers or qualified technicians in accordance with MaineDOT Specifications..

4-2.04 Short Format Appraisal

The Short Format Appraisal is appropriate for acquisitions where there are no severance damages other than those easily supported by a cost to cure, and the following additional conditions are present:

1. The land acquired is vacant or includes only minor improvements.
2. The acquisition does not affect the highest and best use of the property.
3. The property to be acquired is a total acquisition.

For total acquisition parcels or acquisitions involving significant improvements all three approaches to value must be considered and if any approach to value is excluded its omission must be explained.

When there is adequate market data, the comparable sales approach to value may be sufficient for partial strip acquisitions that have no improvements or only minor improvements.

Content and analysis of the short format appraisal must be sufficient for the appraisal problem and the anticipated magnitude of damages.

Both Staff and Consultant Appraisers perform appraisals using the short form format.

4-2.05 Detailed Narrative Report

The Detailed Narrative Report is MaineDOT's detailed Appraisal format that is applicable in all acquisitions in which the Waiver Valuation Procedure, Value Finding, or Short Format Appraisal is not applicable. Generally, its use is reserved for complex acquisitions including partial takes where there are severance damages to the remainder area and require a before and after appraisal.

The Before and After Appraisal is performed by experienced Staff Appraisers or by Consultant Appraisers listed on the MaineDOT Appraisal Register who are certified or licensed for the type of assignment by the Maine Department of Professional and Financial Regulation – Office of Licensing and Registration.

The Appraiser will use all relevant approaches (e.g., market, cost, income) in determining the value of the part acquired and the value of the remainder. The Appraiser will explain not using an approach unless it is obviously not relevant from the nature of the Appraisal problem.

Appraisers are responsible for informing MaineDOT of special circumstances that will affect the prescribed format and for requesting advice as to how to proceed.

4-3 SPECIAL APPRAISAL INSTRUCTIONS

4-3.01 General

The topics addressed below provide information and instructions on requirements that either cut across all appraisal formats or have important specialized application. Several requirements derive from the fact that MaineDOT, having power of eminent domain, operates under State and Federal laws and regulations that do not apply to private real estate transactions. In addition, MaineDOT has certain procedural requirements to insure citizens that property acquisition activities are conducted in a fair and equitable manner. Appraisers who perform valuation services for MaineDOT must know and apply the rules and requirements so that MaineDOT fulfills its varied obligations.

4-3.02 The Appraiser's Certificate

A signed and dated "Certificate of Appraiser" will be included in each appraisal as the last page of the Report. It is the Appraiser's responsibility to be familiar with the content of the Certificate before accepting appraisal assignments. Any questions on interpretation or applicability should be resolved with the project Review Appraiser.

4-3.03 Tenant-Owned Improvements

Buildings, structures or improvements to real property that are owned by tenants will not be included in the appraised value of the property acquired. Instead, they will be listed individually on a separate Report and appraised as to their contributory value to the property. The Appraiser will also estimate each item's salvage value, which is the same as the value for removal from the site. The Department will make a separate acquisition offer to the tenant owner of the improvements if the landowner disclaims ownership interest in the items in writing.

If the Appraiser becomes aware of tenant-owned improvements during inspection of the property, or if ownership of certain items is disputed between the landowner and a tenant, this should be reported to the project Review Appraiser, who will instruct as to how these items should be treated in the appraisal. See Chapter 5 for policy on the purchase of, and payment for, tenant-owned improvements.

4-3.04 USPAP Jurisdictional Exception

Federal and federally assisted real property acquisition is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and implementing regulations found in 49 CFR Part 24. The criteria governing appraisals are found in 49 CFR 24.103 and have the force of law. Staff, certified and licensed appraisers in Maine and other States working on federally assisted projects are to prepare their reports in accordance with these regulatory requirements. Independent certified and licensed appraisers are required by certification statutes to comply with the Uniform Standards of Professional Appraisal Practice

(USPAP), promulgated by the Appraisal Standards Board of The Appraisal Foundation. The appraisal requirements of 49 CFR 103 and 104 are intended to be consistent with USPAP. If these requirements are found to differ from USPAP, the appraiser is required to follow the requirements of the MaineDOT The "Jurisdictional Exception" rule is the USPAP provision that retains applicability of the remainder of the Uniform Standards if any portion is determined to be contrary to law or public policy. This recognizes the preeminence of law and public policy and allows a certified or licensed Appraiser to comply with MaineDOT Appraisal Standards (49 ***CFR*** 24 and 23 ***MRSA*** 153-B) without violating the USPAP. Note the provision in the Certificate of Appraiser (Form VL-9): "That this appraisal assignment is completed in conformance with Federal Law as outlined in the Uniform Act and 49 CFR 24.103 and MaineDOT procedures as outlined in Maine DOT policy and procedural manuals.

Provisions in USPAP require an appraiser to identify the part or parts of the USPAP disregarded in applying the Jurisdictional Exception, and to state the authority justifying this action. Appraisers who have questions or concerns about MaineDOT Appraisal Standards as they relate to the USPAP should address them to the MaineDOT project Review Appraiser or Chief Property Officer.

4-3.05 Compliance with Civil Rights and Nondiscrimination Requirements

MaineDOT directs the attention of Consultant Appraisers to the obligations stated in Appendix A of the Appraiser Agreement, titled "Notice to Fee Appraisers – Compliance with Title VI of the Civil Rights Act of 1964 and Subtitle A, Title 15, ***Code of Federal Regulations***, Part 8 for Federal Aid Contracts."

4-3.06 Additional Appraisals

The Chief Property Officer may authorize subsequent appraisals if necessary to support valuation of the property. Following are several, but not the only, circumstances in which a subsequent appraisal may be secured:

1. Unclear or disputed highest and best use of property,
2. High-value property (generally greater than $300,000),
3. Significant passage of time from the date of appraisal to the date of acquisition, and
4. Unique property or complex acquisition.

4-3.07 Real vs. Personal Property Decisions

The determination of what is realty and what is personalty is critical to determine just compensation and relocation benefits and eliminate duplicate payments. The determination of realty/personalty items is part of the appraisal process. The appraisal report must specifically itemize items of personalty and items of real estate. On site meetings between the appraiser,

property owner, reviewer and relocation staff may be necessary in some cases. There may be items on the appraised property for which a question arises as to status as either real property or personal property. The MaineDOT project Review Appraiser should be consulted for specific instructions about these items.

Scopes of work for appraisal assignments must include the requirement that the appraiser differentiate between items of real estate and personal property, if any, list each in the appraisal report and specify ownership.

4-3.08 Fencing

The Appraiser will describe the type, condition and quantity (linear feet) of any fencing in the acquisition area. There will normally be no valuation, or payment to the property owner, for fencing that the plans indicate will be replaced by MaineDOT. If fencing will not be replaced by MaineDOT, the Appraiser will estimate its contributory value to the property and separately state the salvage value. If there are any unusual circumstances, the Appraiser will consult the project Review Appraiser.

4-3.09 Recording Critical Dates

The Appraiser will record the following dates and place them in the appraisal on the final Estimate and Summary of Damages page:

1. Date and manner by which the owner was contacted regarding the opportunity to accompany the Appraiser in inspecting the property pursuant to 23 ***MRSA*** 153B(2) and 49 ***CFR*** 24.102(c);
2. Date of inspection of the property;
3. Date the value applies; and
4. Date the appraisal is signed by the Appraiser.

The date value applies must be the same as the valuation date shown on the certificate of appraiser.

At or near the date of condemnation, the project appraiser will receive a list of unsettled parcels and a copy of the notice of layout and taking from the review appraiser. The appraiser will then update the original and duplicate appraisals on all unsettled parcels to match the date of condemnation. Required actions include:

1) An investigation of any new market data in the project area that has occurred since the appraiser did the prior market research;
2) A re-inspection and a representative photo taken of all unsettled parcels.

3) A cross-check of the notice of layout and taking with the appraisal to ensure that the acquisition areas are consistent.
4) A determination of the effect of any new market data on the appraised values;
5) An update of appraised values, if necessary; and
6) A new "date value applies" in the appraisals of all unsettled parcels on the Estimate and Summary of Damages and the Certificate of Appraiser pages to match the date of acquisition. An additional "date of inspection" should also be added on the Estimate and Summary of Damages page.

Any new market data affecting values will be provided to the review appraiser for their inclusion in the appraisal where appropriate. Estimate and Summary of Damages and Certificate of Appraiser pages will be revised and transmitted to the review appraiser for their insertion into the original and duplicate appraisals to replace existing pages and if appropriate, the determination of Just Compensation will be updated. New pages will reflect the updated inspection and valuation dates for all unsettled parcels.

4-3.10 Cost to Cure Items

Minor physical damage to property may be valued on a cost to cure if the value on this basis is less than the diminution in value if such cure were not made. Items that may be considered for cost to cure include reconnected utilities, fence relocation or replacement, walkways, steps, handicap ramps, septic systems, drives, etc.

The Appraiser will state the basis for any cost to cure estimate and the source of information used. This may be consultation with a (named) contractor, reference to the cost of recent similar work, advertised installed prices or application of unit costs confirmed locally. The appraiser's estimate will be what an owner would incur by hiring a qualified local contractor to perform the entire job, including any incidental expenses.

4-3.11 Wells

Wells that are the primary water supply to the property and are within the acquisition area or affected by the construction are eligible for replacement through the Department's Well Claims program that is administered by the MaineDOT Environmental Office. Secondary or unused water supplies are appraised as to their contributory value to the property.

4-3.12 Signs

The status of signs within the acquisition area relative to realty vs. personalty should be determined early in the project development process as discussed in Section 4-3.07. Items to

consider in making the determination are discussed in Chapter 6 Relocation Section 6-6.11. Encroachment signs are referred to the Bureau of Maintenance and Operations for removal.

4-3.13 Items Not Compensable under Maine Law

The following are not compensable appraisal items under State law. However, several items are addressed in the relocation program. The Appraiser will not include any listed items as elements of damage on Appraisal Reports submitted to MaineDOT.

1. Removal cost of personal property;
2. Breakage of personal property;
3. Cost of replacement premises exceeding the value of old premises;
4. Business or income opportunity loss;
5. Business interruption;
6. Inferiority of new location;
7. Non-availability of acceptable replacement location;
8. Loss of goodwill;
9. Loss of profitable contracts;
10. Damages from frustration of contracts;
11. Loss of privacy;
12. Owner or tenant inconvenience;
13. Speculative damages (includes all above);
14. Decrease in business value on premises;
15. Value to taker;
16. Value to owner, as opposed to market value;
17. Damages due to the exercise of police power, such as restriction of traffic due to detours during construction, or installation of traffic control devices as part of the highway project; and

18. Circuity of travel (a business does not have a proprietary interest in the traffic passing its site).

If the Appraiser has any questions on any of the above items, they should contact the project Review Appraiser for clarification. The Review Appraiser may request a written opinion from the Legal Services Office for inclusion in the appraisal report.

4-3.14 Opportunity for Owner to Accompany Appraiser

The Appraiser will contact the property owner and offer an opportunity for the owner or a representative to accompany the Appraiser during an inspection of the property pursuant to 23 ***MSRA*** 153B(2) and 49 ***CFR*** 24.102(c). The Appraiser will record the date and the manner of the owner contact and any response that was received.

If the owner cannot be contacted for any reason, or the owner is not responsive, the Appraiser will record efforts to contact and advise the MaineDOT project Review Appraiser.

4-3.15 Information Provided to Appraiser

On assignment, the Appraiser will be provided with the Project Data Book and the following items to the extent applicable:

1. Signed copy of the Appraisal Agreement and the Schedule of Appraisal (Contract Appraiser);
2. Right of way plan sheets;
3. Construction plan sheets;
4. Five-year Conveyance Report;
5. Property Owner Report;
6. Preliminary Title Report, if available;
7. Aerial photos, if available;
8. Timber cruise, if available;
9. Specialty Reports, if secured by MaineDOT; and
10. Scope of Work.

4-3.16 Appraisal Corrections or Additions

Appraisal contracts are not completed until the appraisal(s) are accepted by the MaineDOT project Review Appraiser. Corrections or additions to appraisals will be submitted promptly as replacement or addendum pages that have been dated and initialed by the Appraiser.

Appraisal changes, valuation updates or additions caused by a change in the scope or character of work will be submitted and paid as agreed on between MaineDOT and the Appraiser.

4-3.17 Conflict of Interest – Procurement

No employee, officer or agent of MaineDOT may participate in the selection, award or administration of any contract for the Department if that person has a financial or other interest in the firm selected for the award.

Employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to these agreements.

Any violation of the above is subject to the penalties, sanctions or other disciplinary actions in accordance with State law and regulations.

4-3.18 Specialty Appraisal Reports

Specialty Appraisals are necessary if the acquired property contains items that contribute to the value of the real estate that are not normally found in real estate transactions. This may include installed machinery and equipment, fixtures determined to be real property, or special-purpose properties built to a specific function or use. If the Specialty Appraisal has been performed by a MaineDOT Staff Appraiser, or by a Consultant Appraiser hired by MaineDOT, it will be reviewed by MaineDOT before it is transmitted to the real estate Appraiser. The real estate Appraiser will be instructed to use the Specialty Report to determine the value the specialty items contribute to the value of the whole property. It is not acceptable to simply add the Specialty Report value to the value of the real estate without the specialty items.

4-3.19 Confidentiality of Records

All Appraisal Reports and related documents and information are confidential documents and information will not be disclosed to anyone other than right of way officials of MaineDOT or the Federal Highway Administration until so authorized by those officials or by operation of law.

Appraisals are completed with MaineDOT as the client and intended user. The intended use of the appraisal is to provide a basis for the determination of just compensation and negotiation for the acquisition of real estate necessary for transportation projects.

23 ***MRSA*** Section 63 provides that records and correspondence relating to appraisals and other right of way functions "shall be open for public inspection after 9 months following the completion date of the project according to the record of the Department, not including those claims which have been appealed to the Superior Court, and said records to be open for public inspection following award of the court." Consult the MaineDOT Legal Services Office for interpretation of this provision.

4-4 PROJECT DATA BOOK

4-4.01 Purpose of the Project Data Book

The Project Data Book is a cumulative collection of factual data that have been gathered in support of the preparation of project right of way cost estimates, Appraisal Waiver Worksheets and appraisals for the project. The Project Data Book consolidates general data for a related group of individual parcel reports. It avoids costly duplicative efforts to compile the information that serves a common need of Appraisers, Review Appraisers and other right of way personnel assigned to a project. On larger projects, the Project Data Book promotes project consistency and efficiency.

The Project Data Book compiles information that is used on appraisal comparable data sheets, neighborhood and regional descriptions, general exhibits, right of way cost studies and information relating to the area or region trends (time, utility, location, etc.). The information is limited to factual data. Evaluation and analysis is performed in the Appraisal Reports and other documents that are served by the project data that are compiled in the Data Book.

4-4.02 Responsibility for Compiling the Project Data Book

The Data Book is normally prepared by staff personnel who are trained and experienced in the appraisal process. It is produced under oversight of a Review Appraiser or the Chief Property Officer. A Contract Appraiser may also be employed as necessary.

4-4.03 Content of the Project Data Book

The content of the Project Data Book is intended to reflect the scope and complexity of the project it represents. The level of detail and corresponding effort necessary to complete the data book should vary with the number of parcels on the project, the range of uses, the type of acquisitions and the extent of recent real estate sales market activity. The following summary of content is intended to represent the necessary level of detail and effort for a complex project of significant scope. The content of non-complex projects may be modified appropriately to suit the intended need for these data in relation to the actual project under development.

The intended scope and content of the Project Data Book will be understood and agreed on by the MaineDOT staff who will develop the Book before data collection begins. If the work is contracted to a private Appraiser, the scope and content will be mutually agreed on by the Consultant Appraiser and the Contract Administrator and will be reflected in the Consultant agreement document.

Data collection for the Project Data Book will continue through submission of the last appraisal on the project. This is necessary so that late project appraisals will have the same benefit of current market data as appraisals that are prepared early in the project. Revisions and updates to the Data Book will be dated and signed by the person entering the data.

The Project Data Book will contain the following elements:

1. Title page;
2. Table of contents;
3. Qualifications of preparer(s);
4. Assumptions and limiting conditions;
5. References;
6. Description of project, maps, aerial photographs, etc.;
7. Area and neighborhood analysis;
8. Market data; and
9. Supporting documentation and exhibits.

Each of the above elements is described fully in the following Sections.

4-4.03(a) Title Page

This will include:

1. Project location by municipality,
2. Project number and PIN,
3. MaineDOT identified as the client and intended user,
4. Effective date of Project Data Book, and
5. Name(s) and affiliation of person(s) preparing the book.

4-4.03(b) Table of Contents

List the major parts of the Report and subheadings with page references.

4-4.03(c) Qualifications of Preparer(s)

Provide the qualifications of all persons providing significant contribution in preparing the Project Data Book.

4-4.03(d) Assumptions and Limiting Conditions

Assume that the project will be constructed in accordance with the current design plan, unless there is information to the contrary. This must be cited by source and in specific detail. State any assumptions applicable to the research and assembly of the Project Data Book.

4-4.03(e) References

Provide names and titles of individuals who have supplied significant information for the Data Book, (e.g., municipal officials, contractors, and real estate professionals).

4-4.03(f) Description of the Project, Maps, Aerial Photographs, etc.

Describe, concisely, the proposed transportation project improvement. Describe resulting changes in access, frontage, elevation, drainage, utilities and proximity. Include a project location map relating the project location to the municipality or area. All maps will include a north arrow and identification of the project and the municipality. All maps and plans may be bound as facing pages opposite the description, tabulation or discussion topic to which they relate.

4-4.03(g) Area and Neighborhood Analysis

Present a narrative discussion and analysis of the following items:

1. Define and delineate the real estate market area.

2. Evaluate and analyze the current demand and supply relationships in the local real estate market and describe factors that influence the market.

3. Describe the existing supply of property for the specific uses within the defined market area that are affected by the project.

4. Identify uses, sites and parcels of historic significance and describe the effect on the project of these places.

5. Discuss current patterns of land use and trends in the area first and the neighborhood second. This includes new construction planned or under way, vacant sites as potential competition for the subject(s), adequacy and availability of utilities, access, impaired sites nearby, etc.

6. Discuss current economic factors affecting the area and neighborhood, including population, employment, income, interest rates, rents, zoning, and other regulations. Discuss the probability of future changes for these factors, as relevant.

7. Describe the neighborhood before and after completion of the proposed transportation project.

8. Forecast how anticipated changes in the inventory of real property resulting from the project will affect the subject neighborhood.

9. Attach and provide a brief evaluation of any published economic, damage, cost or other general studies that will be relevant for use in any property valuations.

4-4.03(h) Market Data

The following applies:

1. Reporting. State the extent of the process of collecting, confirming and reporting data. This statement of scope should be brief. If the property is improved and land-only valuations are required, include a statement limiting the scope. If Before and After Appraisals are anticipated, the data collection process must include sufficient comparable sales of the after condition of property as well as comparable sales of the before property.

2. Method. The sales comparison approach is the most easily understood method for the presentation of market value and just compensation. Greater reliance will often be placed on this than on other approaches. The market approach only is required for most parcels. It is therefore imperative that sufficient relevant market data are included for analysis in order to provide a sound basis for conclusions made from the sales comparison approach.

   Current accurate comparable sales information will be provided in a quantity that is sufficient to support the value conclusions as representative of the local market. Data must provide a sound basis for valuation of both the before and the after condition of each parcel. Three comparable sales are generally considered the minimum acceptable support for simple valuations; more are recommended when available, particularly for complex appraisal problems.

3. Neighborhood Sales. The market data survey must include an analysis of all recent sales of similar properties in the subject neighborhood. Discuss and evaluate the existing supply of available similar properties (the competition). If relevant, discuss the sales history of comparables as to time on the market, changes in asking price, resale of the same property, and sales agreements that fell through.

4. Value Indicators. The following indicators of value may be included in the Project Data Book for the purpose of illustrating a trend or extreme, but may not be used as the only basis for value:

   a. Unconfirmed sales,
   b. Listings,
   c. Earnest money agreements,
   d. Offers to purchase,
   e. Lease or purchase options,
   f. Sales to or from agencies having power of eminent domain,

g. Estate sales between relatives,

h. Trades and/or exchanges,

i. Sales with generous financing terms,

j. Foreclosure sales,

k. Sales made under duress,

l. Bankruptcy estate sales, and

m. Auctions.

It is not acceptable to deviate from the foregoing except in rare cases where no other data exists and the Appraiser submits the documents, verification and analysis to the project Review Appraiser for approval for use in an Appraisal Report. Sufficient market data are not always available to evaluate all types of properties subject to acquisition. When market data are limited, or comparability is weak, the Appraiser must demonstrate a concerted effort to obtain other sources or types of supporting data.

5. Inspection of Sales. It is essential to inspect all sales included in the data package. If a timely field inspection is not possible due to weather or other factors, additional documentation of familiarity with the sales will be provided, such as dates of earlier inspections. The sale must be inspected at the earliest opportunity. A waiver for inspection of sales will only be granted under extreme and unusual circumstances. The waiver request will be in writing and will be fully explained and supported.

6. Confirmation of Sale. The Data Book preparer will inspect and personally confirm all market data used for Appraisal Reports. Market sales information is considered reliable when the facts are verified by personal contact with the buyer or seller, or in some cases, agents to the transaction. Not every sale can be confirmed by direct contact with the buyer or seller. In such instances, the Appraiser will verify the transaction facts with the agent or attorney representing the parties or with other source of reliable information. The sale conditions and the source of verification will be identified on the comparable data sheet.

7. Date of Sale. The date of the meeting of the minds, or earnest money agreement date, should be used as the date of sale if possible. Otherwise, the date the deed of transfer was signed, not the date of recording, should be considered the date of sale.

8. Use of Data Gathered by Others. Market data on file with MaineDOT may be shared on request, with no obligation by MaineDOT as to its accuracy or relevance. Any staff or contract valuation professional who receives market data from MaineDOT will independently verify, confirm, and inspect the data if necessary.

9. Comparable Market Data Sheets. A comparable market data sheet (sale sheet) must be included for every sale or value indicator. The preparer is not required to use the MaineDOT Form VL-3, but all pertinent data shown on the Form must be

included in each market data submittal. Descriptions must be sufficiently clear to locate each sale in the field.

Estimate the land/improvement allocation for each improved property. The basis for the allocation, including supporting data, reasoning and correlation, must be provided. A statement that the purchaser or seller allocated the values, or that it came from another appraisal, is not acceptable without further support.

10. Photographs. Attach photos of each comparable property to provide the user with a clear understanding of the property. This requirement applies to both occupied and vacant property. At a minimum, each photo will be identified with the following information:

All Photos	**Sales**	**Leases**
Project Number:	Sale No:	Lease No.:
Town:	Grantor:	Lessor:
Location:	Grantee:	Lessee:
Looking:		
By:		
Date:		

11. Sales Summary Chart. Attach a sales summary chart or a recapitulation of the sales data.

12. Sales Map. Include a sale map that shows the location of each sale referenced by number, in relation to the location of the subject property or the project location. The map must have a north arrow and must identify the properties and their locations sufficiently that they can be found in the field.

4-4.03(i) Supporting Documentation and Exhibits

Attach any documentation or supporting data that may be pertinent to the Report, including:

1. Title reports;

2. Specialty reports;

3. Special instructions from MaineDOT;

4. Legal opinions or references;

5. Cost to cure estimates and calculations, including cost data relied on to establish the contributory value of improvements acquired (improvements must be valued as they contribute to the overall property value; depreciated replacement cost may be an accepted measure of value if it is demonstrated that the market responds in that

manner; the standard of valuation is the fair market value of the entire property; totaling the separate money values of a property's parts is not acceptable);

6. Reproduction cost of new buildings and improvements;

7. Building inspection reports;

8. Rental and cost data survey;

9. Zoning ordinances and other land use regulations and maps;

10. Copies of zoning changes, applications, maps, meeting minutes and variances to demonstrate the reasonableness and probability of rezoning or variance, if zoning issues are expected to influence value;

11. Comprehensive planning documents and maps;

12. Subdivision covenants and restrictions;

13. Environmental or regulatory restrictions;

14. Leases;

15. Economic studies;

16. Environmental studies or analyses performed (discuss any hazardous materials on the project properties or adjacent properties, recent cleanup of the project or adjacent properties or major cleanup; include information on pending actions that may influence the environmental standing of subject parcels);

17. Current dated right of way plans;

18. Tax maps;

19. Flood plain maps;

20. Wetland maps;

21. Utilities maps;

22. Soils survey maps, soil descriptions and uses, particularly for agricultural use;

23. Design reports and project descriptions (design plans should be retimed until superseded or the project is closed out); and

24. Assessed values, real estate taxes, trends and equalization adjustment factors.

4-5 APPRAISAL REVIEW

4-5.01 General

The appraisal review function is an integral part of the valuation process. A determination of fair market value by the Appraiser serves as the basis of the Department's offer of just compensation. Therefore, the appraisal(s) of a property must be reviewed and fair market determination approved before the initiation of negotiations to acquire property.

Beyond the determination of fair market value, the Staff Review Appraiser manages the appraisal process and performs the primary quality assurance role. The Staff Review Appraiser represents the MaineDOT's needs and interests to the appraisal process and represents (and sometimes defends) legitimate appraisal practice to the MaineDOT. The Review Appraiser conveys and interprets appraisal policy, provides information to management on the status of appraisal assignments, evaluates appraisal assignment performance, secures appraisal corrections, and approves completion for payment of appraisals performed under contract.

The Review Appraiser must remain independent and not be influenced to approve a directed value determination or to accept appraisals that are inappropriate or flawed. The Review Appraiser should be flexible enough to help advance the programmatic goals of the Department while not sacrificing appraisal integrity.

4-5.02 Review Appraiser Qualifications

The Review Appraiser performs an oversight as well as an operational role in the valuation process. The Review Appraiser will be fully qualified by training and experience to perform the same type and level of appraisals on which reviews are performed. Review Appraiser qualifications should be at or above peer level with the appraiser being reviewed. Qualifications are generally outlined in 4-1.05 (a) and are more specifically described in the Senior Property Officer Class Specification. Additionally, the Review Appraiser must be thoroughly familiar with MaineDOT right of way policies as well as with Appraisal Standards, including the following:

1. Uniform Standard of Professional Appraisal Practice,
2. Uniform Appraisal Standards for Federal Land Acquisition,
3. 23 ***MRSA*** 153 through 157,
4. 49 ***CFR*** 24.103, and
5. MaineDOT *Right of Way Manual***.**
6. Appraisal principles and practices as applied to the use of eminent domain.

The Review Appraiser is a staff employee of the Department or a fee appraiser contacted by the Department who has extensive experience in the appraisal of property for right of way and who has also performed varied assignments in other right of way functions such as acquisition and property management.

4-5.03 Appraisal Review Responsibilities

4-5.03(a) Scope of Responsibilities

On appraisals or other valuation documents reviewed for each parcel, the Review Appraiser is responsible for the following actions and determinations:

1. Insure that all appraisals submitted to MaineDOT contain the necessary documentation and are factually accurate.

2. Insure that the Appraiser's value conclusion contains only value and damage elements that are compensable under eminent domain in Maine.

3. Maintain adequate records of the status of appraisals on a project basis.

4. Secure appraisal corrections or addendums from Appraisers to resolve omissions or errors noted in review.

5. Determine the fair market value of the part acquired and damages to the remainder.

6. Determine the salvage value for improvements or structures that are anticipated to be retained by the owner or sold for removal.

7. Determine the contributory value for any tenant-owned improvements.

8. Determine the cost to cure of minor elements of physical damage.

9. Review Specialty Appraisals as to the way in which the value of the specialty items contributes to the value of the whole property.

10. Prepare parcel related documents, including:

    a. Form VL-15, Review Appraiser's Value Determination,
    b. Form VL-16A, Statement of Determined Damages (1),
    c. Form VL-16B, Statement of Determined Damages (2), and
    d. Property Tax Pro-ration (Form VL-14).

11. Prepare project related documents:

    a. Tabulation of Appraisals,
    b. Cost Estimate,
    c. Incidental, and
    d. Review Appraiser's Summary Report

12. The Review Appraiser's Summary Report will document the findings and conclusions arrived at during the review and will identify each appraisal report as follows:
    - **Recommended**: The recommended appraisal will be the accepted appraisal that serves as the basis for approval and the establishment of the amount believed to be just compensation.
    - **Accepted**: An accepted appraisal meets all requirements of MaineDOT specifications but is not recommended to serve for approval as the basis for just compensation. or
    - **Not Accepted**,: The appraisal does not meet MaineDOT specifications or requirements.

13. Insure appraisal quality.

14. All appraisals must be approved by a Staff Reviewing Appraiser prior to serving as the basis for the Department's determination of Just Compensation.

The above responsibilities are carried out through the activities described in the following sections.

4-5.03(b) Desk Review for Documentation and Accuracy

The Review Appraiser, or other qualified person under supervision of the Review Appraiser, will make a documentation and accuracy check of the appraisal. This will be performed as soon as practical after receipt of the appraisal but before making a determination of value. The purpose of the desk review is to insure that the appraisal contains all required elements under MaineDOT Specifications and that factual information and mathematical calculations are correct. The desk review will not evaluate matters of valuation judgment. The Reviewer will promptly inform the Appraiser of any errors or omissions revealed by the desk review.

4-5.03(c) Property Inspection

Typically, the Review Appraiser will make an on-site review of the project and property appraised. The inspection should be performed as recent as is feasible to the time the property is appraised. Earlier inspection, such as just prior to appraisal assignment, will suffice if there are no indications of significant physical change in the property or the market influences in the area of the project.

In some cases on non-complex projects in remote locations, Appraisal Reviews may be accomplished without a property inspection if the Review Appraiser is familiar with the area from previous projects. The Reviewer will rely on previous knowledge, the information contained in each appraisal, and other reliable sources. Any questions regarding omitting the on site reviews should be addressed to the Chief Property Officer.

4-5.03(d) Appraisal Corrections, Modifications and Revisions

The Review Appraiser will notify the Appraiser in writing of any needed appraisal corrections, modifications or revisions and set a reasonable date for expected response. If the Appraiser responds with revised appraisal pages, the Reviewer will initial and date them, indicating receipt and acceptance, and place them in the Appraisal Report. Superceded pages will be removed from the appraisal, marked void, and placed in the permanent correspondence file.

Minor changes or clarifications that do not affect the value may be made in ink on the Appraisal Report and then initialed and dated by the Review Appraiser.

At or near the date of condemnation, the review appraiser will obtain a copy of the Notice of Layout and Taking from the condemnation unit and compile a list of unsettled parcels derived from the project negotiator's interim status report. If there are any unsettled parcels on the project, the review appraiser will transmit the list and a copy of the Notice of Layout and Taking to the project appraiser and instruct the appraiser to update those appraisals to the date of condemnation as required in Section 4-3.09 of this Manual.

The review appraiser will ensure that the appraisals on all unsettled parcels have been updated in a timely manner, that all updated pages with corrected dates have been inserted into the original and duplicate appraisal reports and that all superceded pages have been removed. Sixty days after condemnation, the review appraiser will transmit the updated duplicate appraisal and any available negotiator notes or status reports on all unsettled parcels to the Legal Services Office.

4-5.03(e) Avoiding Value Divergences

Before the valuation process begins and when using more than one Appraiser to value the same property(s), there are several preventative measures that can be taken in order to avoid or minimize divergences in value:

1. Develop a clear Scope of Work

2. Establish the appraisal problem before the selection of the Appraisers.

3. Assign the Review Appraiser who will review the appraisals before the selection of the Appraisers in order to participate in the determination of the appraisal problem and the selection of the Appraisers.

4. Provide each Appraiser with the same parcel information to insure that it is consistent and accurate. Either provide a list of items considered personalty or realty, or work with assigned appraisers to insure a consistent list is developed.

5. Conduct a meeting between the Review Appraiser and each Appraiser to discuss the appraisal assignment without discussing values.

4-5.03(f) Resolving Value Divergences

The Review Appraiser will reconcile significantly divergent value conclusions among appraisals of the same property in the manner discussed below.

Widely divergent value conclusions usually arise from 1 or more of the following causes:

1. Difference in judgment among appraisers such as to highest and best use of the property, damages or special benefits to the remainder, adjustments to comparable sales, personal vs. real property, comparables used, selection of capitalization rate, depreciation amounts, etc.; and/or

2. Technical divergences relating to the size of property, age of the improvements, zoning, selling prices of comparables, inadequate data search, leases, non-compensable items, encumbrances, date of valuation, math errors, incorrect or omission of relevant data, etc.

The Review Appraiser is responsible to clearly identify the basis for the difference in appraisal values, and to explain, reconcile or resolve the differences in establishing fair market value. This may necessitate contacting one or all Appraisers to discuss critical elements. The Review Appraiser should not challenge the Appraiser's judgment. The objective is to explore and fully understand the Appraiser's reasoning, and/or to determine whether the Appraiser(s) have considered specific elements that the Review Appraiser considers relevant to value, and that would explain the difference in Appraisers' judgment. The Review Appraiser may ask the Appraiser(s) to submit supplemental information or analysis that will better explain appraisal the appraisal value conclusion.

If the value differential among appraisals is due to factual error, omissions of fact or analysis, or flawed reasoning the Review Appraiser will request the Appraiser to submit correction or reanalysis as appropriate. Flawed reasoning means defect in logic or failure to provide complete reasoning, not merely a difference in judgment between the Appraiser and Review Appraiser.

Differences in Appraiser judgment as to highest and best use may occur in locations that are undergoing transition in land use due to population growth or economic activity. The Review Appraiser is the final authority in determining highest and best use after fully understanding the basis for contrasting appraisal judgments. In making the decision the Review Appraiser should consider the current or currently zoned use as being the most likely highest and best use unless there is a specific compelling reason for a different use (e.g., the probability of rezoning the parcel).

After examining the appraisals and conferring with Appraisers as appropriate, the Review Appraiser may decide that differing value conclusions are not reconcilable and they reflect a reasonable range of expert judgment. It is the Review Appraiser's responsibility to determine which appraisal best represents the most reliable estimate of just compensation for the

Department's proposed acquisition. The Review Appraiser may determine fair market value within the range of the appraisals based on experience and explained judgment. More than one well-supported value conclusion could be the basis for an offer in excess of the approved appraisal when that appraisal is the lower opinion of value. The fair market value may reflect factors such as consistency with unit values established for other properties acquired, or knowledge of recent settlements that may have established a pattern in unit value for the type of land acquired. The Review Appraiser will explain the basis for the fair market value conclusion by writing a memo to the project correspondence file and the Right of Way Support Manager stating the differences between the appraisals and why one was approved over the other(s).

The Review Appraiser may recommend that the Department obtain an additional appraisal to resolve the divergence between two or more appraisals. This is done with the hope the new appraisal will support the opinion of value of one appraisal over the other(s). There is always the possibility that the new appraisal will differ significantly from the previous ones and result in another divergence. At this point the Review Appraiser will decide which appraisal best represents an estimate of just compensation or will form a Reviewer's independent determination of value.

4-5.03(g) Determination of Fair Market Value

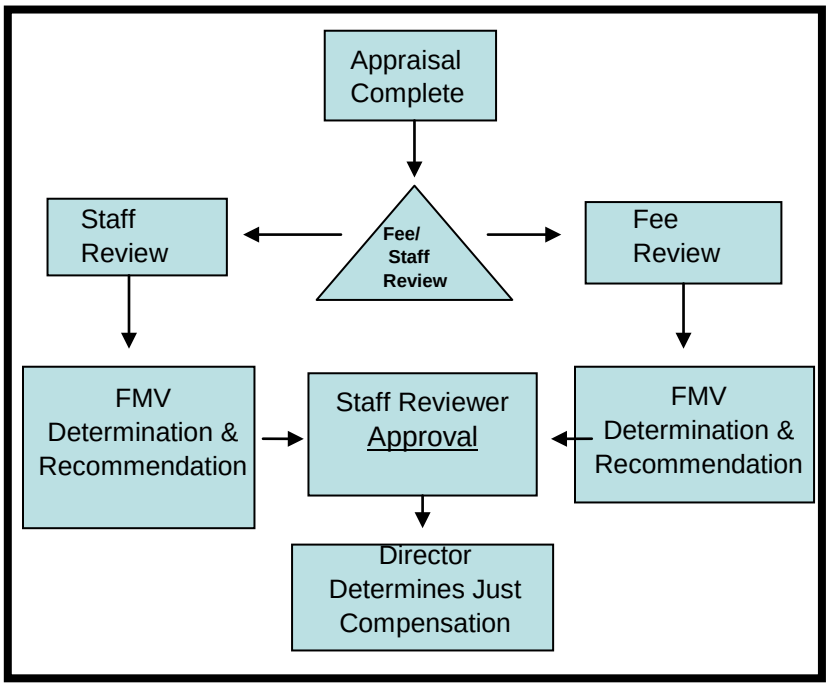
The determination of fair market value is the primary mission of the Review Appraiser. The fair market value is established only after completion of the preliminary steps above, and serves as the basis for the establishment of just compensation by the agency. The determination will be based on the total body of value information available to the Review Appraiser and not exclusively on the Appraisal Report. If the Review Appraiser is led to a value conclusion that significantly differs from the appraisal value, an independent determination will be performed as provided in Section 4-5.04.

4-5.03(h) Approval of the Appraisal

The appraisal review process examines analysis and presentation of data and value conclusions and assures all appraisal requirements are met. The Review Appraiser accepts the appraisal, uses it as a basis for setting fair market value and recommends approval. This review process may be accomplished by either Staff or Fee Review Appraisers. However, 49 CFR 24.104(a) requires the appraisal *approval* and the establishment of Just Compensation remain the function of an Agency official. At MaineDOT, appraisal approval is the function of a staff review appraiser and the Just Compensation determination will be made by the Director of the Property Office or his designee. Staff review appraisers conducting appraisal reviews will approve the recommended appraisal as an extension of the review process. Staff review appraisers overseeing fee reviews are required to assure the fee review is appropriately conducted and that the fee reviewer's recommendation is supportable. The level of oversight and process will depend on the complexity of the appraisal problem, availability of comparable data and skill and qualification of the fee reviewer.

Once the appraisal has been reviewed and approved, the Review Appraiser will record the determined fair market value on the Tabulation of Appraisals and the Appraisal Summary Memo and will calculate the tax pro-rata for parcels with fee acquisitions. The Review Appraiser will

sign and date the determination of value under the parcel certification statements on Form VL-14, complete Forms VL-15 or VL-16, whichever is appropriate, and complete the Incidental Form and the Cost Estimate Sheet.



Review & Approval Process

4-5.03(i) Determination of Just Compensation

The Cost Estimate Sheet will be transmitted to the Property Office for approval by the Director of the Property Office, or designee, as the Agency's determination of just compensation. While the determination of just compensation will not be less than the approved appraisal it may exceed that amount if the Director determines that a greater amount reflects the value of the property. Place copies of all forms in the project correspondence file. The original VL-15, VL-16A or VL-16B, and Incidental and Cost Estimate Forms are transmitted to the Condemnation Unit to be used as the basis for the generation of the offer letters and offer-assent forms.

4-5.03(j) Quality Assurance – Appraisal Review

The Review Appraiser's quality assurance role is served in the ongoing conduct of responsibilities. The Review Appraiser is the main contact with the Appraiser and is the available authority on Appraisal Standards as they apply to properties being appraised. The Review Appraiser has the following quality-related responsibilities in addition to determining the fair market value of property to be acquired for right of way:

1. Maintain a good professional relationship with Staff and Contract Appraisers.

2. Respond in a timely manner to questions raised by Appraisers about their assignments.

3. Maintain adequate records of appraisal assignments and due dates to identify potential delays sufficiently in advance to take corrective measures.

4. Review appraisals and related documents to establish fair market value.

5. Provide constructive and timely advice to Appraisers with the purpose of elevating the quality of submitted appraisals to meet MaineDOT standards.

6. Advise Appraisers and MaineDOT management on the application of appraisal methods and standards to unique or complex appraisal problems.

7. Provide information to MaineDOT management as requested on the status of appraisals on active projects.

8. Keep records of the status of appraisals returned for corrections or modifications, and follow up as necessary to secure revisions promptly.

9. Evaluate the performance of Appraisers under contract on completion of assignment.

4-5.04 Review Appraisers Independent Determination of Value

The Review Appraiser is authorized to form an independent determination of value that differs from the Appraiser's opinion of value. Before making an independent determination, the Review Appraiser will confer with the Appraiser in an effort to reconcile views. In doing this, the Review Appraiser will respect the Appraiser's professional responsibility to advance a value conclusion arrived at by a valid application of the appraisal process.

A Review Appraiser's determination of value will be based on an evaluation of value information by others as further supported by market information and analysis performed independently by the Review Appraiser.

The Review Appraiser will recommend the independent determination on a memo stating the basis and documentation for the determination. A copy of the memo will be placed in both the original and duplicate appraisal along with an accompanying note placed on the Estimate and Summary of Damages page that states: "*See Reviewer's Determination (Date), $_____".* A copy of the memo will be placed in the project correspondence file and another copy will be sent to the Chief Property Officer who, if the value determination is acceptable, will approve it as a just compensation and acquisition offer.

4-6 SPECIAL VALUATION SERVICES

4-6.01 General

Valuation services in MaineDOT include a variety of tasks beyond establishing fair market value for property that is purchased for right of way. The Appraiser and Review Appraiser staff and contract personnel are called on to support certain activities in project development, property management and relocation. This Section discusses special valuation responsibilities and the coordination and communications necessary to perform these tasks effectively.

4-6.02 Project Cost Estimates

Cost estimates are secured for all phases of project development at various stages (e.g., Capital Work Plan, BTIP, Initial Team Meeting, PDR, Final Estimate). The estimate for right of way may include the cost of titles, mapping, appraisals, right of way acquisition, relocation and demolition. Staff or Contract Appraisers and Review Appraisers are tasked to provide project estimates as required for project development.

4-6.03 Valuation Services in Support of Property Management

Valuation services are requested by the Property Manager through the Senior Property Officer and are provided to support property management activities as follows:

1. Prepare value estimates of surplus property that is offered for sale by MaineDOT.
2. Prepare value estimates of uneconomic remnants.
3. Determine fair market rent for temporary occupancy pending construction.
4. Determine fair market rent for long-term rental of surplus property or air rights.
5. Prepare value of access control modifications to support community development or private development.
6. Determine salvage value of acquired buildings and improvements.

4-6.04 Valuation Services in Support of Relocation

Valuation services are requested by the Relocation Manager through the Chief Property Officer and are provided to support relocation program activities as follows:

1. Determine rent for continued occupancy of tenants and for owners of MaineDOT-acquired property, not to exceed short-term market rent.

2. Determine economic rent of owner-occupied dwellings purchased by MaineDOT for the determination of owner to tenant replacement housing benefits.

3. Estimate the cost of replacement housing alternatives for displacees requiring housing provided by MaineDOT under provisions of Last Resort Housing.