

Acquisition of Real Property

- Acquisition procedures apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs.
- Applies to:
 - ✓ Parcels of private or public property acquired for the project
 - ✓ Permanent and temporary easements
 - ✓ Property leased for a period of 50 years or more

Types of Acquisition - Voluntary

Voluntary Acquisition

- No specific site is needed; other properties could be acquired.
- The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits.
- Acquiring entity informs the owner in writing that property will not be acquired through eminent domain authority.
- Acquiring entity informs the owner in writing of **the property's market value.**

Types of Acquisition – Voluntary (Cont.)

Acquiring entity does not have eminent domain authority, for instance:

- Property owner is a governmental entity, such as a school district.
- Economic Development project - The **acquiring entity's eminent domain** authority is limited by law.

Types of Acquisition – Involuntary (Cont.)

- Acquiring entity has eminent domain authority which could potentially be invoked.
- Specific site is required for the project.
- Acquiring entity must provide the landowner with owner rights brochures:
 - When a Public Entity Acquires Your Property
 - **Landowner's Bill of Rights (Required under the Texas Property Code)**
- Appraisal of Property may be required.

Methods of Acquiring Property

- Donation
- Just Compensation
- Negotiated Purchase
- Condemnation
 - Proceeding with acquisition through seizure of property using eminent domain authority requires TDA authorization.

Eminent Domain

- Who has Eminent Domain authority?
 - Municipalities and Counties – conferred under the Local Government Code.
 - Water Supply Corporations and Water Districts – conferred by the Texas Water Code.
 - Political Subdivisions and various governmental entities.

Acquisition Steps - Involuntary

1. Determine parcels needed for project and submit Initial Acquisition Report (Form A600) to TDA.
 - Requires TDA approval.
 - If estimated value is \$10,000 or less, request TDA approval for waiver valuation.
2. Notify property owner of interest in property and provide owner rights brochures.
3. If an appraisal of property is required, notify owner of right to accompany the appraiser.

Acquisition Steps – Involuntary (Cont.)

4. Have property appraised, if required.
 - Appraiser must be licensed/certified by state law (Occupations Code)
 - Fee appraiser must be competitively procured according to TxCDBG policy and Professional Services Procurement Act.
5. Appraisal **must** be reviewed by a Review Appraiser.
6. Make just compensation offer based on appraisal or according to market value if waiver valuation.
 - Provide owner basis for the offer of just compensation.

Acquisition Steps – Involuntary (Cont.)

Involuntary Acquisition – (Cont.)

7. Parties may negotiate the purchase price.
 - If negotiated price exceeds just compensation amount, prepare an Administrative Settlement statement (submit to TDA).
8. Ensure environmental review is completed and that TDA has authorized use of grant funds.
 - Failure to comply with HUD regulations could result in disallowed costs.
9. Execute sale, lease, or donation agreement and record the deed with the county.

Acquisition Steps - Voluntary

Voluntary Acquisition

1. Determine parcels needed for project and submit Initial Acquisition Report (Form A600) to TDA.
 - Chief local official must certify that acquisition meets all conditions qualifying it as Voluntary per 49 CFR 24.101(b)(i)-(iv).
 - Appraisal requirement not applicable.
2. Notify owner in writing of interest in property and that eminent domain authority will not be used to acquire land.
3. Notify owner in writing of estimated market value.

Acquisition Steps – Voluntary (Cont.)

Voluntary Acquisition

4. Parties may negotiate the purchase price.
5. Ensure environmental review is completed and that TDA has authorized use of grant funds.
 - Failure to comply with HUD regulations could result in disallowed costs.
6. Execute sale, lease, or donation agreement and record the deed with the county.

Donation of Real Property

When notifying the property owner of interest in acquiring land, the Acquiring Entity may invite an owner to donate property.

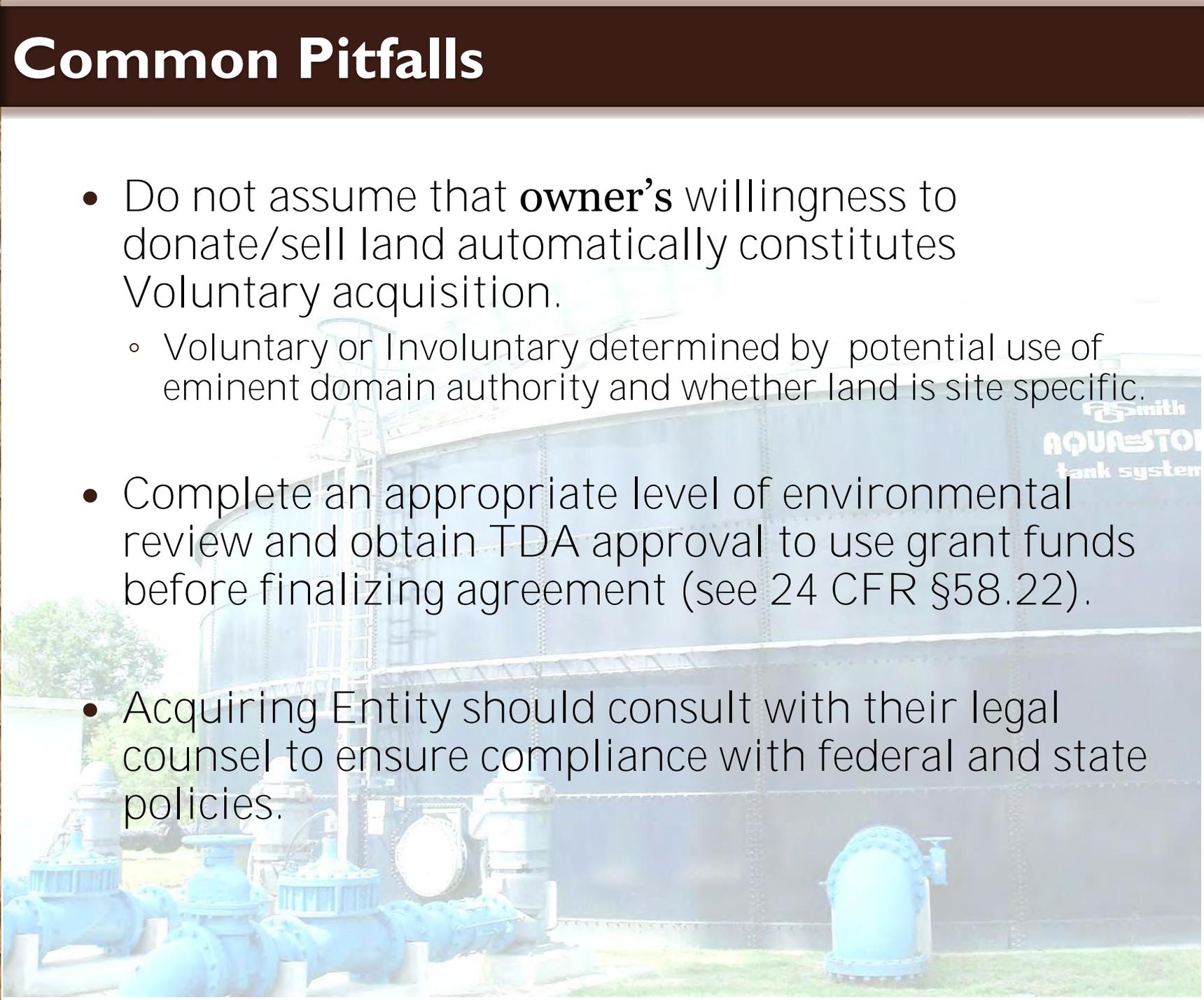
- Applies to Voluntary and Involuntary procedures.
- All applicable notices are still required, including notice of just compensation value.
- Owner must waive right to an appraisal in writing.

Relocation

- Section 104(d) of the *Housing and Community Development Act of 1974* provide for relocation requirements for CDBG funded project.
- Relocation assistance may be required for displaced persons.
 - Displaced Person - Lower-income person(s) who must move as a direct result of the conversion or demolition of his/her dwelling unit for a project in which HUD funds are used.
- Procedural regulations found at 49 CFR 24 Subsection C.
- Relocation requirements generally do not apply to Voluntary Acquisition unless there are displaced tenants.

Common Pitfalls

- Do not assume that **owner's** willingness to donate/sell land automatically constitutes Voluntary acquisition.
 - Voluntary or Involuntary determined by potential use of eminent domain authority and whether land is site specific.
- Complete an appropriate level of environmental review and obtain TDA approval to use grant funds before finalizing agreement (see 24 CFR §58.22).
- Acquiring Entity should consult with their legal counsel to ensure compliance with federal and state policies.



Common Pitfalls – (Cont.)

- Ensure that a complete Initial Acquisition Report (Form A600) has been filed with TDA.
 - Include description and map.
 - Form must be certified by the Chief Elected Official or designee.
 - File updated report with TDA if acquisition is later necessary for the project.
- Include acquisition in the scope of activities of TxCDBG Contract Performance Statement.
- Accurately determine if Acquiring Entity has eminent domain authority.

What's New!

- Chapter has been re-organized to better explain the basic step-by-step procedures for Voluntary and Involuntary acquisition.
- The Initial Acquisition Report (Form A600) and Acquisition Report (Form A601) have been revised to better align with Voluntary and Involuntary steps.
- Sample HUD Guide forms and former TxCDBG sample acquisition documents will now **be published on TDA's** website.
- Compliance monitoring checklist has been revised.



Questions

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CHAPTER 7

Labor Standards

Labor Standards – Basic Process

- Type of construction - Does DBRA Apply?
- Appoint a LSO
- Obtain the proper wage decision (WD): www.wdol.gov
- Issue the Wage Rate Notice
- Include the Wage Decision in the bid documents
- Complete the 10 Day Call
- Check contractor for Eligibility (SAMs)
- Award / Execute the Contract
- Pre-Con conference
- Submit the LSR
- Review Payrolls during construction
- Submit construction Completion reports/ FWCR

Labor Standards - Exemptions

- Construction contracts of \$2,000 or less;
- Construction contracts of \$100,000 or less are exempt from CWHSSA only;
- Single-family homeowner residences (Making Davis Bacon Work-2006. (Exhibit 2))
- Rehabilitation of residential property designed for fewer than eight families; (Making Davis Bacon Work-2006. (Exhibit 2))
- Demolition and/or clearance activities (for example, debris removal), unless related to construction (demolition and clearance as independent functions are not considered construction);
- Labor/installation charges on equipment or materials purchases, if that portion of the contract is less than 20% of the total cost of the item(s) purchased.
- Construction work performed by the employees of the Grant Recipient (force account) that are engaged on an otherwise covered project; and
- Construction work performed by a public utility extending its own utility system

Construction Types

- **HIGHWAY CONSTRUCTION** -- Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to building or heavy construction.
- **BUILDING CONSTRUCTION** -- Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction such as structures, residential structures greater than four(4) stories, the installation of utilities and the installation of equipment, both above and below grade level, as well as incidental grading, utilities and paving. **Additionally, such structures need not be “habitable” to be building construction. The installation of heavy machinery and/or equipment does not generally change the project’s character as a building.**

Construction Types

- **RESIDENTIAL CONSTRUCTION** -- Residential projects for Davis-Bacon purposes are those involving the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks.
- **HEAVY CONSTRUCTION** -- Heavy projects are those projects that are not properly classified as either building, highway or residential. Unlike these classifications, heavy construction is not a consistent classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

Labor Standards – Implementation Procedures

- Submit the LSO Appt. Form: A701
- Send in the 10 DC PRIOR TO BID OPEN: A703
- Complete the Labor Standards Record: A706
- Additional Wage Classification as needed A705
- Certificate of Construction Completion A709
- Final Wage Compliance Report A710
- SEND TO LABORS INBOX