

This collection of information is voluntary and will be used to provide a detail analysis of the waiver valuation program nationwide. Public reporting burden is estimated to average 4 hour per response, including the time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 2125-XXXX. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Michael Howell, Information Collection Clearance Officer, Federal Highway Administration, 1200 New Jersey Avenue, E64-433 SE, Washington, DC 20590, or michael.howell@dot.gov.

# Federal Highway Administration Waiver Valuation Survey

## Survey Instructions

This survey is intended to provide information about how Federal and State agencies ~~your agency~~ handle the waiver valuation process under 49 CFR Part 24 and how State agencies ~~you~~ advise Local Public Agencies (LPA's) in their use. The results of the survey will support FHWA in the administration of the Uniform Act.

Please respond to each question. Your answers will be saved as you work through the questionnaire, so you do not need to complete the survey in one sitting. You also can go back and revise answers if needed. You may provide estimates if you do not know the exact answers to questions. The survey includes several open-ended questions about your policies and procedures; please provide as complete answers as possible. When possible, please provide links to documentation, including state law, regulations, or other policies that affect the waiver valuation process in your state.

The survey is being fielded by the Cadmus Group on the behalf of the FHWA. If you have any questions, please contact [Name] at (telephone) or (email address), and they will assist you with the questionnaire.

FHWA will only make use of the information you provide when it has been aggregated with the responses of the other departments. We will not disclose your name or the name of your department in public documents. The agency is required to display the Office of Management and Budget (OMB) Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5 (b). The OMB Control Number for the survey is [Control Number]. The expiration date for Control Number is [Date].

For this survey, "Waiver Valuation" is defined under 49 CFR Part 24 in section §24.2 (33) Waiver valuation:

49 CFR 24.2 "(33) *Waiver valuation*. The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to §24.102(c)(2) appraisal waiver provisions."

49 CFR 24.102(c)(2) "An appraisal is not required if:

- (i) The owner is donating the property and releases the Agency from its obligation to appraise the property; or
- (ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.
  - (A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.
  - (B) The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the \$10,000 threshold, up to a maximum of \$25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph.”

## Background

The initial intent of the waiver valuation was to help manage costs and increase efficiency in the right-of-way phase of a project by allowing qualified staff, in lieu of licensed or certified appraisers, to establish estimates of just compensation for straightforward acquisitions. The original \$2,500 limit was proposed because many agencies found they were spending more in appraisal and appraisal review fees than the compensation recommendation that resulted from the appraisals. In January of 2005 [70 FR 611, Jan. 4, 2005], the waiver valuation limits in 49 CFR 24.102 were raised to \$10,000, with the additional regulatory flexibility which allowed an acquiring agency to raise their waiver valuation limit to \$25,000 if, during negotiations, the property owner was offered an opportunity to elect to have the agency appraise the property (i.e. appraisal, appraisal review). This waiver valuation program has been very successful and as a result, there is mounting pressure to expand the limits farther. However, a program that was originally designed for low value, low risk acquisitions that were viewed as simplistic may not be robust enough to stretch to these newly envisioned limits, so more research such as this survey, is necessary. Wherever possible or appropriate we invite and encourage you to provide weblinks to online information including, but not limited to, statutes or regulations, case laws, policies, studies, or any other information you are willing to share.

Part 1. Describe the statutes, regulations, and court cases that affect the use of waiver valuations.

**Q1. Does your agency use waiver valuations as a part of right-of-way acquisitions?**

- A. Yes, we use it as a standard part of right-of-way acquisitions [GO TO Q4.]
- B. No, we do not use it as a standard part of right-of-way acquisition, but we use it on an ad hoc basis [GO TO Q4.]
- C. No, my agency does not use waivers, and I do not know of any other agency that uses them [GO TO Q3.]
- D. No, my agency does not use waivers, but I know of other agencies that use them. [GO TO Q2.]

**Q2. Please provide contact information for officials in other agencies that use waiver valuations. [GO TO Q4. when done]**

Name:  
\_\_\_\_\_

Phone:  
\_\_\_\_\_

Email:  
\_\_\_\_\_

**Q3. [If Q1-C or D]: Please explain why you do not use waiver valuations as a standard part of right-of-way acquisition. [End survey]**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Federal agencies do not ask questions 4, 5, or 6.]

**Q4. Does your agency rely upon the following to enable the use of waiver valuations? (select all that apply)**

- A. Enabling state legislation (please include URL)  
\_\_\_\_\_
- B. State regulation (please include URL)  
\_\_\_\_\_
- C. Other (please describe and include URL)  
\_\_\_\_\_
- D. None

**Q5. Do you have state or local laws, regulations, or court cases in your jurisdiction that affect the use of waiver valuations? Indicate if state or local laws, regulations, or court cases limit the use of waiver valuations, affirm the use of waiver valuations, or neither limit nor affirm the use of waiver valuations. (Choose 1 for each row)**

	Limit the use of waiver valuations	Neither limit nor affirm the use of waiver valuations	Affirm the use of waiver valuations
A. Laws	•	•	•
B. Regulations	•	•	•
C. Court cases	•	•	•
D. Please provide citations or web link(s):			

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\_(You also may upload policy or other documents if they are not on line here.)

**Q6. [If Q6.=C] What are the waiver valuation limits in your state laws? (Please provide a URL to online documentation if available.)**

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**Q7. [Federal agencies or states if Q4.=A or B] Do your Agency's waiver valuation limits match those found in [49 CFR part 24](#)?**

- A. The limits are currently \$10,000
- B. The limits are currently \$25,000 (when we offer the property owner the option of having the agency appraise the property)
- C. No

**Q8. Does your agency have *published* policy or standard operating procedures that guide the use of waiver valuations? (source citations requested)**

- A. Yes (please provide source citations):
- 

- B. No

**Q9. Has your agency changed its waiver valuation limits since 1989 as changes have been federally authorized?**

- A. Yes
- B. No **[GO TO Q13.]**

**Q10. [If answer "yes" to Q9.] What changes have occurred? (Provide a brief description.)**

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**Q11. [For federal agencies only] Does your agency have limits that are different than shown in 49 CFR?**

A. Yes (please provide source citations):

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B. No

**Q12. The 2010 rewrite of the Jurisdictional Exception Rule and the guidance in the frequently asked questions (FAQ's) published by The Appraisal Foundation suggests that licensed or certified appraisers performing the waiver valuations perform an expanded level of analysis. How has your agency responded to this change (if it has responded)?**

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## Part 2. Describe how your department handles waiver valuations.

**Q13. Regulations require that before an agency hire someone to determine the value of a property, the agency first determine what the valuation problem is that needs to be solved 49 CFR 24.103 (a)(1) & (2).<sup>i</sup> The agency may determine the valuation problem at the time of the project cost estimate, but before making the assignment to the appraiser or waiver valuer. Does your agency have a formal process (or a checklist) that it goes through to determine the valuation problem and the proper scope of work for an appraisal or waiver valuation before making the assignment? Note: An appraisal is not required for a "waiver valuation" and a "waiver valuation" is not an appraisal as defined in 49 CFR 24.2(3)]**

A. Yes (Please provide citations or web link(s):)

B. No

**Q14. Who is allowed to make assignments to the valuer/appraiser in your jurisdiction (check all that apply)?**

A. Appraisers – Licensed or Certified

B. Brokers

C. Realtors

- D. Auctioneers
  - E. Agency staff
  - F. Other (Specify)
- 

**Q15. Does your agency have written minimum qualification for staff who make assignments to the valuer/appraiser?**

A. Yes; please provide a url or upload a document

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B. No

**Q16. Does your agency use contractor services to conduct waiver valuations (appraisal waivers)?**

A. Yes

B. No [\[go to Q18.\]](#)

**Q17. What percentage of your agency's waiver valuations are performed by agency staff and not consultants?**

A. 0% to 25%

B. 26% to 50%

C. 51% to 75%

D. More than 75%

**Q18. Please describe the evaluation criteria your agency uses to ensure contractor compliance with the waiver valuations provisions in the Uniform Act.**

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**Q19. How many staff does your agency currently employ in the following categories (if unsure, please provide your best estimate):**

Licensed or certified appraisers? \_\_\_\_\_

Not licensed or certified appraisers but are qualified to perform waiver valuations? \_\_\_\_\_

**Q20. Are there laws, regulations, or court decisions in your jurisdiction that limit who can perform waiver valuations?**

A. Yes Please provide citations or web link(s):

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B. No [GO TO Q22.]

**Q21. [If Q20.=A] Who is allowed to perform waiver valuations in your jurisdiction (check all that apply)?**

- A. Appraisers – Licensed or Certified
- B. Brokers
- C. Realtors
- D. Auctioneers
- E. Agency staff
- F. Other (Specify)

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**Q22. Does your agency have written minimum qualification for Agency staff who perform waiver valuations?**

A. Yes; please provide a url or upload a document

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B. No

**Q23. Does your agency have written minimum qualifications for consultants who perform waiver valuations?**

A. Yes; please provide a url or upload a document

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- B. No

### Part 3. How does your agency guide sub-grantee agencies or jurisdictions, including LPA's, in the use of waiver valuations?

**Q24. Does your agency provide guidance to LPA's or other sub-grantee agencies on the use of waiver valuations?**

- A. Yes
- B. No

**Q25. [If answer "yes" to Q24.] What format does your agency's guidance to LPA's take? (Check all that apply.)**

- A. Telephone guidance (Q & A)
- B. Waiver valuation training seminars
- C. Waiver valuation prequalification for LPA staff
- D. Review and oversight of waiver valuations prior to LPA making offer to property owner
- E. Other (please describe)

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- F. Please provide citations or web link(s).

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(You also may upload policy or other documents if they are not on line here.)

**Q26. [If answer "yes" to Q24.] Do these sub-grantee agencies operate under the same waiver valuation authority levels and limitations as your agency?**

- A. Yes
- B. No

**Q27. [If answer "yes" to Q24.] Do these sub-grantee agencies use waiver valuations less, about the same, or more than your agency?**

- A. Less than your agency
- B. About the same as your agency
- C. More than your agency

## Part 4. To what extent does your agency use waiver valuations?

**Q28. What proportion of initial offers of just compensation fall into each of the following categories (Should sum to 100%)?**

\$0 to \$10,000	_____	%
\$10,001 to \$25,000	_____	%
\$25,001 to \$50,000	_____	%
\$50,001 to \$75,000	_____	%
\$75,001 to \$100,000	_____	%
\$100,001 to \$125,000	_____	%
\$125,001 to \$150,000	_____	%
Greater than \$150,000	_____	%

**Q29. In approximately what proportion of total acquisitions are waiver valuations used?**

- A. 0% to 25%
- B. 26% to 50%
- C. 51% to 75%
- D. More than 75%

**Q30. Has your agency conducted any side-by-side comparisons of waiver valuations versus standard appraisals on the same property to see if the estimated compensation provided by the waiver valuation is anywhere close to the estimated compensation provided by a uniform act compliant appraisal/review process?**

- A. Yes
- B. No

**Q31. For which of the following do you have information about the administrative burden of right-of-way valuations, excluding the cost of the acquisition itself? (Check all that apply)**

- A. Waiver valuations
- B. Appraisals
- C. Appraisal reviews

**Q32. How does the relative cost to administer waiver valuations, compare to the costs to administer the traditional appraisals/reviews program?**

- A. Waiver valuations cost less to administer than traditional appraisals/reviews

- B. Waiver valuations cost about to administer the same as traditional appraisals/reviews
- C. Waiver valuations cost more to administer than traditional appraisals/reviews
- D. We do not track that information

**Q33. [If checked any items in Q27, ask about those items] What is the average cost per completed waiver valuation/appraisal/review to your agency of the following:**

A. Waiver valuations

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B. Appraisals

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C. Appraisal reviews

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**Q34. Is your agency able to rely on waiver valuations to file condemnation actions?**

- A. Yes
- B. No

**Q35. Regulations require agencies to understand the local real estate market to be qualified to perform acquisitions. Does your agency use any of the following data sources to help yourselves comply with that requirement? (Check all that apply)”**

- A. Multiple Listing Services (MLS's)
- B. Costar / Loopnet
- C. Site to do Business (STDB) (Appraisal Institute)
- D. Local County records on-line
- E. **ATTOM Data Solutions** - property record data - More than 155 million properties nationwide, ownership and transaction history
- F. **42 Floors** - This is an aggregator of commercial real estate spaces for sale, lease, sublease and coworking in the United States. They have 100,000 listings nationwide.
- G. **RealMassive** - Based in Austin, RealMassive has a database of more than four billion square feet of office, industrial and retail space throughout the United States.
- H. **Rofo** - Rofo offers zip-code based searches for office space, warehouses, retail locations, shared offices space and investment properties, with more than 30,000 current listings.
- I. **Commercial Café** - Commercial Café has more than 45,000 listings in all of the major commercial real estate categories and is free to post to with advertising available for property owners.
- J. **Truss** - Designed for tenants searching for office space of 10,000 or fewer square feet, Truss is a new and accessible site for small businesses.
- K. **Brevitas** - This collaborative effort features a marketplace of private, open and off market listings.

- L. **Crexi** – With more than 48,000 listings, CREXi features a range of tools for brokers in every state.
  - M. **Quantum Listing** – QuantumListing is a national site with searchable listings and an unlimited posting option with paid memberships. Individual and broker memberships are available.
  - N. **OfficeSpace.com** – Specializing in office space options, OfficeSpace.com has large scale space, small offices and coworking spaces for all sizes of businesses. They have listings in most major cities in the US and a free listing option.
  - O. <https://www.acrevalue.com/sales/> Browse agricultural land sales across the U.S. View land prices, acreage, land use, and GIS data for each sale and build a comparable sales report.
  - P. **Catylist** – Catylist is for individuals and companies looking for industrial, shopping, office, multi-family, hospitality, or land properties and they have thousands of listings across in their searchable database.
  - Q. **RealNex Marketplace** – This is a free alternative platform built on the PropertyLine platform. The marketplace has 250,000 listings in the United States and 4.7 billion square feet for lease.
  - R. **CIMLS** – The Commercial Investment Real Estate Listing Service offers all types of commercial properties and has 320,000 registered members and more than \$500 billion in available property to choose from.
  - S. Others (Specify)
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**Q36. Does your agency use any of the following software programs (intended for financial institutions and appraisers) to expedite the creation of waiver or appraisal forms or reports? (Check all that apply)**

- A. **Total** by alamode
  - B. **Appraiser's Choice** by ACI
  - C. **Agile Appraisal** by HouseCanary
  - D. **Appraise-It** by SFREP
  - E. **ClickForms** by Bradford Technologies
  - F. **Real Easy Appraisals** by WCA-inc.
  - G. **Argus** by Altus Group
  - H. **Narrative1** by ExactBid
  - I. Others (Specify)\_
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- J. None

**Q37. [If answered anything other than "None" for Q36.] Please describe your experience with these software programs, both positive and negative.**

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**Part 5. Describe your agency's process for determining the satisfaction of property owners with the waiver valuation procedure.**

**Q38. Does your agency operate under a law, regulation, or policy that requires transparency in your right-of-way valuation process? (source citations requested)**

A. Yes (please provide citations)

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B. No

**Q39. Do you provide a copy of the waiver valuation to a property owner?**

C. Yes

D. No

**Q40. Has your agency conducted any property owner opinion surveys?**

E. Yes

F. No [GO TO Q45.]

**Q41. [If answered "yes" to Q40.] When do you conduct the property owner opinion surveys?**

A. At closing or the conclusion of each waiver valuation

B. Multiple times during the process

C. Spot checks or surveys of a sample of completed waiver valuations

D. Other (Specify)\_

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**Q42. [If answered "yes" to Q40.] Does your agency provide written guidelines regarding property owner opinion surveys?**

A. Yes (Please provide citations or web link(s)).

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(You also may upload policy or other documents if they are not on line here.)

B. No

**Q43. [If answered “yes” to Q40.] On average, what proportion of property owners provide feedback?\_\_\_\_\_**

**Q44. [If answered “yes” to Q40.] Which of the following statements best represents conclusions your agency has drawn from your property owner surveys?**

- A. Property owners are generally satisfied with waiver valuation approach
- B. Property owners were indifferent between the waiver valuation approach and the full appraisal approach
- C. Property owners are generally unsatisfied with waiver valuation approach

**Q45. Do you offer any incentives to encourage acceptance of waiver valuations?**

A. Yes. (Please describe)

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B. No

## Part 6. Innovations or improvements to the waiver valuation process.

Often the very best, most intuitive, and ingenious approaches for improving a process are the result of initial implementation failures. FHWA is very interested in finding out about those best practices that have evolved over time in response to initial problems or “hiccups” that may have occurred in a programs development. Practices that have been implemented that increased an agency’s confidence or comfort level with waiver valuations allowing their use to be expanded and more widely accepted are of particular interest.

**Q46. Has your agency developed new, innovative approaches to its waiver valuation program to correct program-wide issues or problems that may have occurred in an acquiring agency’s program? (These new approaches maybe responses to ineffective or inappropriate use of waiver valuations by agency staff or consultants. FHWA would like to know what steps agencies have taken to correct problems they identified, and which steps were most effective in correcting issues.)**

A. Yes

B. No

**Q47. Would you be willing to participate in a follow-up telephone interview? The interview would last approximately 1 hour and would provide some additional detail about your waiver valuation program.**

A. Yes [go to Q48.]

B. No [end survey]

**Q48. Please provide the following contact information to allow us to follow-up with questions. Your personal information will not be included in the summary of the survey.**

Name:

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Title/Position:

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Agency:

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Phone:

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Email:

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Thank you for filling out the survey. If you have any questions, please contact Kevin O'Grady at FHWA at 202-366-2030.

i. 49 CFR 24.103 “**(a) Appraisal requirements.** This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). (See appendix A, § 24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).

(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the **scope of work** and defining the appraisal problem. The **scope of work** and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in § 24.2(a)(3) and the five following requirements: (See appendix A, §§ 24.103 and 24.103(a).)

(i) 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 highest and best use, and at least a 5-year sales history of the property. (See appendix A, § 24.103(a)(1).)

(ii) 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. (See appendix A, § 24.103(a).)

(iii) 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.

(iv) 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 remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.”