



HUD RAP

(Relocation & Acquisition Policies)

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Office of Affordable Housing Programs

Q1: Are the regulatory requirements for the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (“Uniform Act” or “URA”), as implemented at 49 CFR part 24 subpart B applicable to the acquisition of temporary easements?

A1: Prior to issuance of the URA Final Rule, the previous regulatory requirements of 49 CFR 24.101(b) *Less-than-full-fee interest in real property*, provided agencies with the discretion to apply the subpart B acquisition requirements to any less-than-full fee acquisition which in its judgment should be covered. HUD’s former policy with respect to this discretionary provision was that the URA subpart B requirements did not apply to the acquisition of temporary easements. However, HUD’s former policy is no longer in compliance with the URA Final Rule regulatory changes published in the Federal Register on January 4, 2005. The URA Final Rule established that the acquisition of both permanent and/or temporary easements (*with some exceptions*) are now subject to the 49 CFR part 24 subpart B acquisition requirements.

49 CFR 24.101(c)(1) provides that the subpart B requirements apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner. 49 CFR 24.101(c)(2) states that, “*The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.*” The acquisition of temporary easements which do not satisfy the exception provided in 49 CFR 24.101(c)(2) above remain subject to the regulatory requirements of 49 CFR part 24 subpart B.

It is also important to note that “voluntary acquisitions” which satisfy the applicable requirements of 49 CFR 24.101(b)(1)-(5) are not subject to the URA regulatory requirements of 49 CFR part 24 subpart B.