



U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: INFORMATION: Implementation Guidance - Section 315
National Highway System Designation Act

Date: February 20, 1996

From: Director, Office of Real Estate Services

Reply to

Attn. of: HRW-10

To: Regional Administrators

A May 20, 1994, memorandum to the Regions discussed the issue of the applicability of the Uniform Act to the activities of non-profit organizations. It was our position that the activities of non-profit organizations are subject to Uniform Act coverage if they are for a Federal or federally-assisted program or project. This includes, as the Comptroller General has noted, situations in which the land was acquired with the intention of using it for construction of a federally-assisted project.

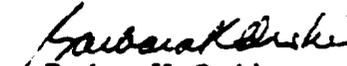
The recent National Highway System (NHS) Designation Act of 1995 includes a provision, Section 315, which modifies this requirement in limited situations.

Section 315, "Applicability Of Certain Requirements To Third Party Sellers" is limited to transportation enhancement activities only. Section 315 applies to situations in which there is a two-step conveyance of real property - from a private owner (the third party) to a qualified transportation enhancement activity. Section 315 essentially removes the first conveyance from the coverage of the Uniform Act, except in two specific situations: (1) if the conservation organization acted on behalf of the agency receiving Federal-aid when it acquired the real property, and (2) if there was Federal approval of property acquisition prior to the involvement of the conservation organization.

For the purposes of Section 315, the term "Federal approval of property acquisition" means the date of the approval of the environmental document, i.e., the Categorical Exclusion, the Environmental Assessment, or the Environmental Impact Statement, as appropriate. Similarly, the term, "involvement of the conservation organization" means the date the organization makes a legally binding offer to acquire a real property interest (including an option to purchase) in the property.

If either of the two situations described above exists, then the requirements of the Uniform Act apply to the third-party seller transaction. In the first situation, the requirements of the Act

would apply, just as if the agency receiving the Federal-aid had carried out the acquisition. In the second, the limited requirements under 49 CFR 24.101(a)(2), for an agency or person without eminent domain authority, would apply.


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