INTRODUCTION
The Wisconsin Constitution, Article 1, section 13, establishes eminent domain authority, which is the power to take private property for a public purpose with payment of just compensation. The Eminent Domain Law, Wis. Stat. Ch. 32, vests several public and private entities with eminent domain power. Condemnation is the legal process by which the acquiring agency exercises its eminent domain power.

The following are jurisdictional requirements the acquiring agency must obey in order to condemn property. Even if an acquiring agency does not intend to obtain property via condemnation, it must comply with the requirements of Chapter 32 when proceeding with an activity that may involve displacement of persons, business concerns, or farm operations.

RELOCATION ORDER
Specific entities are required to make a relocation order that provides for the laying out, relocation and improvement of a transportation-related facility prior to initiating negotiations. The order must include a map or plat showing the old and new facility locations, as well as the land and interests required for the project. Within 20 days of issue, a copy of the order must be filed with the county clerk where the lands are located.

APPRaisal
The acquiring agency must obtain at least one appraisal for each property it will acquire prior to initiating negotiations. When obtaining and drafting the appraisal, the appraiser must consult with the property owner. Once completed, the appraiser must provide the owner with a full narrative appraisal. Also, the acquiring agency must notify the owner that he/she may obtain his/her own appraisal at the (reasonable) expense of the acquiring agency. The owner’s appraisal must be submitted to the acquiring agency within 60 days of receiving the agency’s appraisal.

NEGOTIATIONS
The acquiring agency must negotiate with the property owner for purchase of the property and must consider the full narrative appraisal to establish the property’s fair market value. It must provide a map showing all property the project impacts and the names of at least 10 neighbors who are receiving offers. If the project affects fewer than 10 owners, the acquiring agency must give the names of all offerees. Property owners may inspect and make copies of any maps the acquiring agency holds. The acquiring agency may present relocation benefits during negotiations, if relocation of displaced persons is required.

In partial acquisitions, fair market value is the greater of (1) the fair market value of the part acquired, or (2) the difference between the entire property value before and after acquisition. If only part of the property is acquired and an uneconomic remnant remains, the acquiring agency must offer to acquire the uneconomic remnant. An uneconomic remnant is the property remaining after a partial taking, if it is of such size, shape or condition to be of little value or of substantially impaired economic viability.

Compensation for an easement is the difference between the property value immediately before and immediately after the date of evaluation. The date of evaluation is the date the conveyance is recorded by the county register of deeds.

If the property owner agrees to a negotiated sale, the acquiring agency must record the conveyance with the county register of deeds. After recording, the acquiring agency must provide notice of the conveyance to all owners of record, by certified mail or personal service, as well as of their right to appeal the compensation award within 6 months of the recording date.
If the owner fails to accept the jurisdictional offer, if negotiations fail, the acquiring agency must provide the property owner with a jurisdictional offer. Any party having ownership interest in the acquired property has 2 years from the date of evaluation to challenge the compensation award. “Litigation expenses” is defined as “the sum of the costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees necessary to prepare for or participate in actual or anticipated proceedings before the condemnation commissioners, board of assessment or any court under [Chapter 32].” Wis. Stat. § 32.28(1)(b). There are several conditions under which litigation expenses may be awarded to a complainant in a just compensation matter. These conditions are set forth in Wis. Stat. § 32.28(3)(a)-(i).

ASSISTANCE

This is the primary contact information for the acquiring agency. According to the law, the acquiring agency must provide assistance if all jurisdictional requirements to condemn have been met, the award has been entered and a comparable property has been made available. Assistance is defined as “the provision of financial aid, or assistance if all jurisdictional requirements to condemn have been met, the award has been entered and a comparable property has been made available.” Assistance includes but is not limited to the payment of relocation expenses, legal fees, appraisal fees, and any other expenses necessary to relocate the property owner. Assistance is available to the property owner who has accepted the award and moved from the property or to the property owner who has not accepted the award but has been required to move from the property.

CONTESTING THE RIGHT OF CONDEMNATION

Any party to the condemnation commission that disagrees with the award or the basis of the award may file a complaint with the court of the county where the property is located, naming the acquiring agency as the defendant. However, if the owner has already accepted and retained any of the compensation, such an action may not be filed. The court shall grant the writ of possession of the property upon 48-hour notice to the occupant. The court shall grant the writ of possession of the property upon 48-hour notice to the occupant. The court shall grant the writ of possession of the property upon 48-hour notice to the occupant.