Right of Way Procedures

The INSERT AGENCY NAME (Agency), needing to acquire real property (obtain an interest in and/or possession of) in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and applicable federal regulations (49 CFR Part 24) and state law (Ch. 8.26 RCW), and state regulations (Ch. 468-100 WAC) hereby adopts the following procedures to adhere to all applicable laws, statutes, and regulations. The Agency is responsible for the real property acquisition and relocation activities on projects administered by the Agency and must acquire right of way (ROW) in accordance with the policies set forth in the Washington State Department of Transportation Right of Way Manual M 26-01 and Local Agency Guidelines (LAG).

Below is a list of Agency staff, by name and position titles, who are qualified to perform specific ROW functions. Attached to these procedures are resumes for everyone listed within these procedures, which provide a summary of their qualifications. The procedures shall be updated whenever staffing changes occur.

1. The Agency has the staff with the knowledge and experience to accomplish the following ROW Disciplines:
	* 1. PROGRAM ADMINISTRATION:

Oversee delivery of the ROW Program on federal aid projects for the Agency. Ensures ROW functions are conducted in compliance with federal and state laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Ensures Agency’s approved ROW Procedures are current, including staff qualifications, and provides copies to consultants and Agency staff;
* Oversight of ROW consultants;
	+ use of consultant contract approved by WSDOT
	+ management of ROW contracts
	+ management of ROW files
	+ reviews and approves actions and decisions recommended by staff & consultants
	+ Overall responsibility for decisions that are outside the purview of consultant functions
* Sets Just Compensation before offers are made;
* Oversight and approval of Waiver Valuations per policy;
* Oversight and approval of Administrative Settlements per policy;
* Ensure the Agency has a relocation appeal process before starting relocation activities;
* Obligation authority for their Agency;
* Obtain permits (Non-Uniform Relocation Act (URA));
* Ensures there is a separation of functions to avoid conflicts of interest.
* Verifies whether ROW is needed, and that the property rights and/or interests needed are sufficient to construct, operate, and maintain the proposed projects (see LAG Appendix 25.174, 25.175, & 25.176).

ENTER AGENCY STAFF BY NAME AND POSITION TITLE (REQUIRED POSITION)

Note: Staff included under Program Administration must have completed the eLearning Administrative Settlement and No ROW Verification training available at <https://wsdot.wa.gov/business-wsdot/support-local-programs/local-programs-training/right-way-training-education>

* + 1. APPRAISAL

Prepare and deliver appraisals on federal aid projects for the Agency. Ensures that appraisals are consistent and in compliance with state and federal laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Use only qualified agency staff approved by WSDOT to perform appraisal work;
* Use an Appraiser from WSDOT’s Approved Consultant List if the Agency does not have qualified staff;
* Prepare ROW Funding Estimate (not required to be completed by an appraiser & only when there are federal funds in the ROW Phase);
* Prepare Wavier Valuation;
* Obtain specialist reports;
* Coordinate with engineering, program administration, acquisition, relocation, and/or property management, as necessary.

ENTER AGENCY STAFF BY NAME AND POSITION TITLE OR ENTER "CONTRACT WITH A QUALIFIED CONSULANT"

* + 1. APPRAISAL REVIEW:

Review appraisals on federal aid projects for the Agency to make sure they are adequate, and reliable, have reasonable supporting data, and approve appraisal reports. Ensures appraisals are adequately supported and represent fair market value and applicable costs to cure and are completed in compliance with state and federal laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Use only qualified agency staff approved by WSDOT to perform appraisal review work;
* Use review appraiser from WSDOT’s Approved Consultant List if the agency does not have qualified staff;
* Ensures project-wide consistency in approaches to value, use of market data, and costs to cure;
* Coordinate with engineering, program administration, acquisition, relocation, and/or property management, as necessary.

ENTER AGENCY STAFF BY NAME AND POSITION TITLE OR ENTER "CONTRACT WITH A QUALIFIED CONSULANT"

* + 1. ACQUISITION:

Acquire, through negotiation with property owners, real property, or real property interests (rights) on federal aid projects for the Agency. Ensures acquisitions are completed in compliance with federal and state laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Use only qualified staff to perform acquisition activities for real property or real property interests, including donations;
* To avoid a conflict of interest, when the acquisition function prepares a Waiver Valuation, only acquires property valued at $15,000 or less;
* Provide and maintain a comprehensive written account of acquisition activities for each parcel;
* Prepare Waiver Valuation justification and obtain approval;
* Prepare Administrative Settlement and obtain approval;
* Prepare Right of Way Funding Estimate (when there are federal funds in the ROW Phase);
* Review title, and recommend and obtain approval for acceptance of encumbrances;
* Ensure acquisition documents are consistent with ROW plans, valuation, and title reports;
* Provide a negotiator disclaimer;
* Maintain a complete, well-organized parcel file for each acquisition;
* Coordinate with engineering, program administration, appraisal, relocation, and/or property management, as necessary.

ENTER AGENCY STAFF BY NAME AND POSITION TITLE OR ENTER "CONTRACT WITH A QUALIFIED CONSULANT"

Note: Staff included under Acquisition must have completed the eLearning Administrative Settlement training available at <https://wsdot.wa.gov/business-wsdot/support-local-programs/local-programs-training/right-way-training-education>

* + 1. RELOCATION:

Provide relocation assistance to occupants of property considered displaced by federally funded projects for the Agency. Ensures relocations are completed in compliance with federal and state laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Prepare and obtain approval of relocation plan before starting relocation activities;
* Confirm relocation appeal procedure is in place;
* Provide required notices and advisory services;
* Make calculations and provide recommendations for Agency approving authority before making payment;
* Provide and maintain a comprehensive written account of relocation activities for each parcel;
* Maintain a complete, well-organized parcel file for each displacement;
* Ensure occupants and personal property is removed from the ROW;
* Coordinate with engineering, program administration, appraisal, acquisition, and/or property management, as necessary.

ENTER AGENCY STAFF BY NAME AND POSITION TITLE OR ENTER "CONTRACT WITH A QUALIFIED CONSULANT"

* + 1. PROPERTY MANAGEMENT:

Establish property management policies and procedures that will assure control and administration of ROW, excess lands, and improvements acquired on federal aid projects for the Agency. Ensures property management activities are completed in compliance with federal and state laws, regulations, policies, and procedures.

**Responsibilities/Expectations:**

* Account for use of proceeds from the sale/lease of property acquired with federal funds on other title 23 eligible activities;
* Keep ROW free of encroachments;
* Obtain WSDOT/FHWA approval for change in access control along interstate;
* Maintain property records;
* Ensure occupants and personal property is removed from the ROW;
* Maintain a complete, well-organized property management file;
* Coordinate with engineering, program administration, appraisal, acquisition, and/or property management, as necessary.

ENTER AGENCY STAFF BY NAME AND POSITION TITLE (REQUIRED POSITION)

* 1. Any functions for which the Agency does not have qualified staff, the Agency will contract with another local agency with approved procedures, a qualified consultant, or the WSDOT. An Agency that proposes to use qualified consultants for any of the above functions will need to work closely with their ROW Local Agency Coordinator (LAC) and Local Programs to ensure all requirements are met. The LAC will perform spot-check reviews on selected federal aid or federal aid-eligible projects. **The LAC must be given an opportunity to review all offers and supporting data before offers are made to the property owners.** The number of spot-check reviews is dependent upon the scope of the project, the complexity of acquisitions, the local agency’s level of experience, and past performance. Spot check reviews may not be required on all projects but will lessen the risk of delays during ROW Certification. Additional information or parcel files may be requested by the LAC to ensure local agency compliance.
	2. The Agency’s Administrative Settlement Procedures indicating the approval authorities and the procedures involved in making administrative settlements need to be included with these procedures (see Exhibit A).
	3. An Agency wishing to take advantage of the Waiver Valuation process, properties valued up to $35,000 or less, need to complete Exhibit B of these procedures.
1. All projects shall be available for review by the FHWA and WSDOT at any time and all project documents shall be retained and available for inspection during the plan development, ROW, and construction stages, and for three years following acceptance of the projects by WSDOT.
2. Approval of the Agency’s procedures by WSDOT Local Programs may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all, or part of the functions approved.

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| INSERT NAME & TITLE OF THE AGENCY'S APPROVING AUTHORITY |  | Date |

**Washington State Department of Transportation**

Approved By:

|  |  |  |
| --- | --- | --- |
| Local Programs Right of Way Manager |  | Date |

**EXHIBIT A**

**Agency’s Administrative Settlement Policy**

INSERT AGENCY'S ADMINISTRATIVE POLICY.

|  |  |  |
| --- | --- | --- |
| INSERT NAME & TITLE OF THE AGENCY'S APPROVING AUTHORITY |  | Date |

**Washington State Department of Transportation**

Approved By:

|  |  |  |
| --- | --- | --- |
| Local Programs Right of Way Manager |  | Date |

**EXHIBIT B**

**Agency’s Waiver Valuation**

The INSERT AGENCY NAME , hereinafter (Agency), desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C, 49 CFR Part 24, and State directives, and desiring to take advantage of the waiver valuation process approved by the Federal Highway Administration (FHWA) for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation (WSDOT) as follows:

Rules

1. The Agency may elect to waive the requirement for an appraisal if the acquisition is simple, has a low fair market value, and the compensation estimate (including the cost to cure items) and the estimated property value is under $35,000.

B. The Agency must make the property owner(s) aware that an appraisal has not been completed on the property for offers of $15,000 or less.

C. The Agency must make the property owner(s) aware that an appraisal has not been completed on the property for offers over $15,001 and up to $35,000, and that an appraisal will be prepared if requested by the property owner(s).

D. Special care should be taken in the preparation of the Waiver Valuation as no review is mandated, the preparer needs to ensure that the compensation is fair and that all the calculations are correct.

Procedures

A. A Waiver Valuation is prepared using comparable sales found and verified at the time of preparation.

B. The Waiver Valuation is approved by the Agency staff listed under Program Administration within these Right of Way Procedures. Upon signature, an offer to the property owner(s) is authorized once the local agency coordinator has completed a Spot Check for the project.

INSERT MINIMUM PAYMENT POLICY, IF APPLICABLE.

|  |  |  |
| --- | --- | --- |
| INSERT NAME & TITLE OF THE AGENCY'S APPROVING AUTHORITY |  | Date |

**Washington State Department of Transportation**

Approved By:

|  |  |  |
| --- | --- | --- |
| Local Programs Right of Way Manager |  | Date |