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1.1. Introduction

This manual is intended to guide Department of Transportation & Public Facilities (DOT&PF) staff and contractors through the right-of-way (ROW) acquisition, appraisal, relocation, and property management processes. The Department's ROW Group will use policies, procedures, and practices agreed upon with our funding partners as described in this manual to acquire and manage real property, whether for highways (including Federal-aid highways), airports, public facilities, transportation alternatives, or environmental mitigation.

This manual also applies to contractors and other agencies acquiring real property for DOT&PF.

Electronic copies of the manual incorporate hyperlinks for ease of use. If a hyperlink does not work, please notify the Statewide ROW Chief at 907-465-6954.

Note: The hyperlinks are to statutes and regulations as they existed on the date of this publication. Please verify whether a law has since been amended.

This chapter provides an overview and summary of the various ROW processes, including the statutory and regulatory background for those processes.

1.2. Mission Statement and Responsibility

DOT&PF's mission is "Keep Alaska Moving through Service and Infrastructure."

In managing the State's highway rights of way, DOT&PF has a legal obligation to serve the traveling public by protecting the safety and integrity of a highway's design, and to facilitate the

design, construction, maintenance, and operation of highways.

The ROW Group meets this obligation by providing engineering, appraisal, acquisition, relocation assistance, and property management services. DOT&PF is committed to furnishing cost-effective, sound, and reliable transportation systems and public facilities for all Alaskans.

ROW Agents have both the duty and the responsibility to serve the people of Alaska through exemplary conduct, patient explanation, and courteous treatment of all with whom they come in contact. Agents must have thorough knowledge of basic engineering practices; theories and techniques of real property appraisal, acquisition, and management; real property law; and pertinent regulations. Agents must be able to communicate effectively and must be honest, tactful, and innovative.

1.3. History and Organization

1.3.1. History

The Alaska Road Commission was created in 1905 and remained until 1959. The Department of Public Works was then created to oversee highways, airports, water and harbors, buildings, and other related functions.

The Governor established the Department of Highways and Public Works in 1962 by executive order. It remained as the parent organization of Aviation, Water and Harbors, Buildings, and the newly created Division of Marine Transportation.

The Department of Highways was eliminated in 1977 and the Department of Transportation & Public Facilities was established to combine the work of the two previous departments.

1.3.2. Organization

DOT&PF is organized geographically, with a headquarters office in Juneau and regional offices in Juneau (Southcoast Region), Anchorage (Central Region) and Fairbanks (Northern Region). There are also highway maintenance offices, design offices, marine facilities, airports, and public buildings scattered across the state. DOT&PF's Web site is located at: <http://dot.alaska.gov>.

ROW employees are located in the headquarters and three regional offices.

are also available on the Internet at Workplace Alaska at <http://workplace.alaska.gov>.

Organization charts and position descriptions for ROW are available in the regional offices or from the Division of Statewide Design & Engineering Services at 3132 Channel Drive, Juneau, AK 99801. Position descriptions and qualifications for job series

The following chart gives an overview of the functions of each ROW Group, however regions may organize duties differently. Responsibilities are further detailed in succeeding chapters of this manual.

Position Title or Unit Name	Functions
Statewide ROW Chief (Headquarters)	<ul style="list-style-type: none">• representing Statewide Design & Engineering Services' ROW Group, acts as a liaison between the regions and funding partners; Department of Law; and other agencies;• develops and advises on statewide ROW policy and operating procedures and coordinates implementation;• leads maintenance and periodic updates of the statewide ROW Manual;• acts as ROW training coordinator;• coordinates regional reports into statewide reports to funding agencies;• manages Appraisal and Appraisal Review staff;• functions as Statewide Relocation Officer to facilitate formal appeal hearings with assistance from the Department of Law.
Regional ROW Chief (Northern, Central, and Southcoast)	<ul style="list-style-type: none">• representing Regional ROW supervises staff, delegates work and authorities as needed, and assigns staff to projects, coordinating with Regional Design Project Managers and Project Control staff;• reviews waiver valuations and Review Appraisers' Recommendations of Just Compensation for parcels to make final determination of just compensation;• approves administrative settlements for payments above market value;• approves relocations benefits payments;• approves payments to contractors, property owners (sellers or lessors), fee attorneys, fee negotiators, fee appraisers and, in coordination with the Appraisal Review Group, review appraisers, and others involved in the ROW portion of a project;• certifies projects as ready for construction; and• oversees the online permitting program.
ROW Pre-Audit Group (Regional)	<ul style="list-style-type: none">• performs all ROW administrative functions, including:<ul style="list-style-type: none">○ tracking all funding and expenses for ROW Group (staff training and travel; payroll; normal office expenses; and specific project budgets);○ preparing parcel review reports;○ coordinating with DOT&PF Finance Group to encumber funds;○ processing payments to contractors, landowners, fee attorneys, fee negotiators or appraisers, or others involved in the ROW portion of a project;○ coding all expenses to the proper ledger accounts according to State and Federal regulations; and○ monitoring each project to ensure proper completion of

Position Title or Unit Name	Functions
	<ul style="list-style-type: none"> conveyance documents, recording of ROW plans, and proper documentation of eminent domain proceedings (where appropriate); ○ preparing project close-out files and memo; and ○ submitting appropriate tax forms to landowners and IRS.
ROW Engineering Group (Regional)	<ul style="list-style-type: none"> • prepares or orders title reports; • prepares ROW plans; • prepares Parcel Plats; • prepares Subdivision Surveys; • prepares Records of Survey; and • obtains platting approval when necessary.
ROW Appraisal Group (Regional)	<ul style="list-style-type: none"> • values parcels either in house or by contract using either waiver valuations or appraisals; and • ensures delivery of appraisal(s) to Appraisal Review Group (Headquarters).
ROW Appraisal Review Group (Headquarters)	<ul style="list-style-type: none"> • reviews appraisal(s) either in house or by contract at the direction of the Statewide Right-of-Way Chief; and • recommends the recommendation of just compensation for each parcel appraised; and • administers contracts for Reviewer Appraisers and coordinates with Regional Right-of-Way Chiefs to approve payments.
<p><i>Note:</i> waiver valuations are not appraisals and thus are not reviewed by the Appraisal Review Group. Waiver valuations are reviewed and approved by the appropriate Regional ROW Chief.</p>	
ROW Acquisition Group (Regional)	<ul style="list-style-type: none"> • negotiates and acquires parcel(s) from property owners; • prepares conveyance and related documents; • prepares recommendation for condemnation when appropriate; • handles acquisitions involving archaeological or paleontological significance according to Federal regulations; and • handles acquisitions from Federal and State agencies.
ROW Relocation Group (Regional)	<ul style="list-style-type: none"> • prepares relocation study for use in environmental document; • determines eligibility of displaced persons/businesses; • assists property owners in relocation to another suitable property, whether for housing or for business; • inventories and monitors business moves; • inspects and approves replacement housing; • determines amounts for eligible relocation payments; and • reviews relocation payment forms.
ROW Property Management Group (Regional)	<ul style="list-style-type: none"> • manages State-owned ROW; • manages State-owned materials sources; • carries out provisions of 1965 Highway Beautification Act on areas adjacent to highway ROW; • arranges for rental of properties after acquisition, where appropriate; • makes final inspection and takes possession of acquired properties; and • arranges for clearing of improvements from property before construction.

1.4. Project Funding

For the purposes of this manual, all real estate acquisitions, including those for public facilities, are referred to as ROW.

Funding for DOT&PF projects comes from the following sources:

- Alaska General Fund, through the Alaska Legislature;
- Federal Highway Trust Fund, through the Federal Highway Administration (FHWA);
- Airports and Airways Improvement Act of 1982 and the Airport and Airway Development Act of 1970, through the Federal Aviation Administration (FAA); and
- Federal Transit funding through the Federal Transit Administration (FTA).

1.5. Statutory and Regulatory Background

The U.S. Constitution and the Alaska Constitution require that just compensation be paid to the owners of private property acquired for public use. The Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended applies to all real property acquisitions where Federal funds are involved in any phase of a project that involves these properties. The law has been amended several times, most significantly in 1987 as part of the Surface Transportation and Uniform Relocation Assistance Act (Public Law 100-17) and in 2012 as part of the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141). Together, they are referred to as the “Uniform Act”.

The acquisition and relocation procedures described in this manual are based upon the Uniform Act. DOT&PF's statutory authority to hold title and manage land is contained in [AS 02](#), [AS 19](#), [AS 28.01](#), [AS 28.05](#), [AS 30](#), [AS 34.60](#), [AS 35](#), [AS 41.21](#), and [AS 36.30](#). DOT&PF's authority to acquire real property and to control outdoor advertising are contained in part under [AS 19](#). [AS 34.60](#) deals with relocation assistance and real property acquisition practices.

FHWA was the lead agency in writing regulations involving real property acquisition and relocation.

The regulations are based upon the Uniform Act and are contained in [49 CFR 24](#). These regulations apply to all Federal agencies or to any project with any type of Federal funding. DOT&PF has adopted certain portions of [49 CFR 24](#) by reference in [17 AAC 81](#) (Relocation Assistance Services).

In addition to complying with State and Federal statutes and regulations dealing directly with acquisition and relocation requirements, as a condition to receiving funding from FHWA, DOT&PF must ensure compliance with the provisions of the laws listed in [49 CFR 24.8](#), including but not limited to:

- Civil Rights Act of 1964 (Pub. L. 88–352, 78 Stat. 241, enacted July 2, 1964);
- [23 USC 324](#) (Prohibition of Discrimination on the Basis of Sex);
- [23 CFR 200](#) (Title VI Program and Related Statutes—Implementation and Review Procedures);
- [49 CFR 21](#) (Nondiscrimination in Federally-Assisted Programs of the U.S. Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- [49 CFR 27](#) (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance); and
- Rehabilitation Act of 1973.

No person in the United States or alien who is lawfully present in the United States may, because of race, color, national origin, gender, age, income, or disability, be excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination under any activity or program for which the State of Alaska receives Federal funding. The Alaska Department of Transportation & Public Facilities' compliant Nondiscrimination Policy Statement is available online at http://dot.alaska.gov/tvi_statement.shtml.

Discrimination is also prohibited by the State in the selection and retention of contractors whose services are retained for (or incidental to) construction, property management, and ROW acquisition (including contracts for appraisal services, title

reports, and title insurance and disposal of improvements).

1.6. Oversight Agreement

Section 106 of Title 23, United States Code ([23 U.S.C 106](#)) requires FHWA and the State to enter into an agreement to document a new delegation of responsibilities.

This [Stewardship and Oversight Agreement](#) sets for the agreement between the FHWA Alaska Division and the Alaska DOT&PF with respect to Title 23 project approvals and related responsibilities, and Federal-aid Highway Program oversight activities.

Several instances are specified in [23 CFR](#) where approval actions differ for interstate projects. See the current Stewardship and Oversight agreement for guidance on ROW project responsibilities.

FHWA's approval of this Alaska Right-of-Way Manual constitutes FHWA determination that Alaska DOT&PF policies satisfy the provisions of [23 USC 106](#), [23 USC 107](#), [23 USC 108](#), and [23 USC 111](#), and [23 CFR 1.23](#), and the requirements of [23 CFR 710](#) and [49 CFR 24](#), and approves these policies for use on Federal-aid highway projects in Alaska.

1.7. Summary of Project Activities

This section includes a brief summary of the typical progression of a highway project. Individual projects may vary. Projects are processed according to Federal phase:

- Phase 2—Design;
- Phase 3—ROW;
- Phase 4—Construction; or
- Phase 7—Utilities.

Most ROW activities are accomplished during Phase 2 and Phase 3.

1.7.1. Phase 2

Project development for a Federal-aid highway project begins with FHWA's authority to proceed (ATP) with pre-design or reconnaissance through environmental document approval. An approval details the decision on how, or whether, to proceed with project design. Primary activities include

engineering and environmental studies to identify and analyze reasonable alternative solutions to the problem or deficiency, and work necessary to produce an approved environmental document. ROW work in support of environmental studies is normally performed under the pre-design authorization.

ROW's first involvement in a project comes when the regional Environmental Group requests relocation studies on various alignments of the proposed project.

Using a description of the alternative alignments provided by the Engineering Manager, ROW staff prepare estimates of the probable number of parcels for each alternative, their acquisition and relocation costs, and "incidentals" - the cost of performing ROW activities.

ROW staff members also assess the number and socio-economic effects of residential and business displacements it causes and report the results to the Engineering Manager.

If there is a public hearing on the environmental document where right-of-way acquisition is anticipated, ROW staff can attend and discuss the acquisition and relocation processes.

In rare cases, such as for a project with minimal ROW acquisitions, DOT&PF may request, and FHWA may authorize, appraisal completion as preliminary ROW activity prior to completion of the environmental document. DOT&PF will include a statement in the comments block of the ATP form that this is a special authorization and that DOT&PF acknowledges that any costs involved with parcels that are not ultimately incorporated into the final project will not be considered participating costs for purposes of Federal funding.

After approving the environmental document, FHWA issues the ATP through final PS&E. The primary activity is engineering to identify and analyze principal design features and design elements that will satisfy the project's purpose and need, and produce final construction plans and specifications.

Supporting activities include surveys, materials/foundation investigation, traffic/accident analysis, ROW plans and appraisal market data research (see Ch. 2), environmental re-evaluation, utility agreement development, and (on projects with

bridges or major structures) coordination with the Bridge and Statewide Materials Groups.

Once the project has received design approval, the ROW Engineering Group identifies land needs based on design plans and completes a title search for the project (using either staff or a title company) and then prepares the ROW plans based upon project design and title information.

1.7.2. Phase 3

After final ROW plans have been completed, DOT&PF requests authority to proceed with appraisal and acquisition from FHWA, unless this authority was requested under Phase 2 (see Ch. 2).

ROW activities under Phase 3 generally include the appraising, acquiring, and managing of property and relocating affected parties.

After FHWA has given ATP with appraisal and acquisition, the parcels on the project are valued (either by appraisal or waiver valuation) and the appraisals are reviewed for the establishment and offer of just compensation for each parcel.

After approval by the Regional ROW Chief, the ROW Agent contacts each property owner and attempts to acquire the parcels. If negotiations fail or title complications exist, and if administrative settlement at a higher than market price is imprudent or unsuccessful, eminent domain (condemnation) proceedings are initiated through the Department of Law. These proceedings significantly affect project schedules and budgets. The proposed taking must be for the greatest public good and the least private injury, and the Pre-Construction Engineer must approve the decision to proceed with condemnation.

Property owners may request construction items be added to the plans. The ROW Agent submits such requests for Engineering Manager approval using [Memorandum of Agreement \(MOA\) Form 25A-R605](#).

If acquiring right of way necessitates relocating an affected party, the Negotiating Agent and Relocation Agent should be present at the initial meeting with a property owner. The two agents will coordinate efforts until the property has been acquired and the party is relocated.

When a parcel with improvements is acquired, the Property Management Group is notified so they can make arrangements to clear the improvements from

the property to prepare it for project construction. The Property Manager prepares an inventory of improvements and excess property acquired.

The Property Manager then arranges for clearing the acquired ROW of any improvements, controlling encroachments, and disposing of lands no longer necessary for public use.

When all parcels are acquired, all parties are relocated from the property, and all improvements are cleared from the ROW, the Regional ROW Chief certifies the project and signs the Project Certification form that is circulated by the Project Manager before requesting construction authority.