

12. Definitions

access management - the control of access to a highway or airport achieved by acquiring adjoining property;

Act of February 5, 1948 - An act to empower the Secretary of the Interior to grant rights of way for various purposes across lands of individual Indians or Indian tribes, communities, bands or nations.

acquired - DOT&PF has obtained legal possession of a property;

acquisition - the process of buying property; also refers to the property being acquired, preferred term to “take”;

Acquisition Agent - the ROW Agent who meets with property owners to buy their property;

acquisition value - the value of the portion of land and improvements to be acquired as they contribute to the larger parcel;

activity or site of significant interest to the traveling public - a motorist service, a tourist attraction, or a commercial activity that derives a major portion of income during the normal business season from motorists who do not reside in the immediate area of the business or activity;

administrative closure - the official closing of a project by submitting a final cost billing to the Federal agency participating in the project cost;

administrative expenses - overhead costs such as salaries and travel involved in acquiring ROW;

administrative settlement - a nonjudicial acquisition of property for an amount other than the established market value;

advance acquisition - acquiring one or more parcels for a project before the normal sequence of acquisition events, generally for hardship case or protective buying, or by donation; see also hardship case, protective buying, and early acquisition;

Agency Journal Entry (AJE) - an accounting entry for income and expenditures;

agent - a person (including a DOT&PF employee, a contractor, or a Local Public Agency employee) who represents DOT&PF or uses funds administered by DOT&PF to acquire property;

Air Navigation Site - a site being used for, or proposed for, an airport;

Airport Improvement Project (AIP) - an FAA program that funds improvements to airports, [Title 49 USC Sec. 47171](#) (Public Law 103-272);

AIP (Airport Improvement Program) Handbook – provides guidance and sets forth policy and procedures used in administering the Airport Improvement Program.

Airport Sponsor Guide - a supplement guide to administer the AIP grant program used in some other FAA regions and previously used in Alaska. Alaska currently uses the AIP Handbook.

AKSAS number - the project number assigned from the Alaska State Accounting System (AKSAS), the former repository for project financial records. Integrated Resource Information System (IRIS) and IRIS numbers are replacing AKSAS and AKSAS numbers;

alien who is lawfully present in the United States - an alien who is “lawfully present” in the United States as defined in [8 CFR 103.12](#);

allottee - the owner of a Native American land allotment;

ANCSA - the Alaska Native Claims Settlement Act;

appraisal - a written statement independently and impartially prepared by a qualified appraiser that sets forth an opinion of defined value of an adequately-described property as of a specific date, supported by the presentation and analysis of relevant market information;

appraisal review - the formal review of all phases of an appraisal for the purpose of determining just compensation;

arterial - a major highway;

Assistant Attorney General - a lawyer employed by the State of Alaska Department of Law;

authority and necessity - a proof by the State that it has the authority to condemn a specific parcel and that condemnation is necessary for the project;

authority to appraise and acquire - authority issued by FHWA, allowing DOT&PF to proceed with the appraisal and acquisition portion of a project;

Authority to Proceed (ATP) - the FHWA or DOT&PF approval to proceed with a project at different stages of development; ATP is effective when FHWA or DOT&PF approves the request;

automobile graveyard - an establishment or place of business that is maintained, used, or operated primarily to store, keep, buy, or sell wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts, and that has 10 or more such vehicles at the establishment;

average annual net earnings - one-half of the net earnings of a business or farm operation, before Federal and State income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for a project; it includes compensation paid by the business or farm operation to the owner, spouse, or dependents during the two-year period;

avigation - use of air space above a property for the flight of aircraft;

before and after appraisal - a means of measuring the difference in value between the entire property prior to a taking and the value of the remainder after a taking;

benefit - the advantageous factors that accrue to a property because of a public improvement;

betterment - physical improvements that add to the value of the structure or land and that are more than mere repairs;

BIA - the Bureau of Indian Affairs, United States Department of the Interior;

BIA Deed - a deed obtained by BIA for the benefit of a Native American allottee;

BLM - the Bureau of Land Management, United States Department of the Interior;

business - any lawful activity, except a farm operation, that is conducted:

1. primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of

products, commodities, and/or any other personal property;

2. primarily for the sale of services to the public;
3. primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. by a nonprofit organization that has established its nonprofit status under applicable Federal or State law;

case caption - the designation of parties and the court-assigned case number for a condemnation case;

cash equivalency - the market value of each sale in terms of cash to the seller; if the terms and financing of the sale are not cash or reasonable terms that would give the seller cash at closing, then the appraiser must consider the cash equivalency of the terms of the sale;

CERCLA - Comprehensive Environmental Response Compensation and Liability Act of 1980 (Public Law 96-510, or "Superfund")

certificate - the part of an appraisal report containing the appraiser's estimate of market value, the date of appraisal, and specific conditions under which the value was reached;

CFR - the Code of Federal Regulations, the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the Federal government of the United States. The CFR is divided into 50 Titles that represent broad areas subject to Federal regulation. The CFR is searchable online at <https://www.ecfr.gov>;

Chief Engineer - the title of the person so designated by DOT&PF as head of Design & Engineering Services;

Commissioner's Deed of Vacation (CDV) - a deed from DOT&PF transferring title and agreeing to abandon use of a property;

Commissioner's Quitclaim Deed (CQD) - a deed from DOT&PF conveying any interest it might have in a property;

comparable replacement dwelling - a dwelling that is:

1. decent, safe, and sanitary.

2. functionally equivalent to the displacement dwelling so that it performs the same function, provides the same utility; while a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present; generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used, but in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Regional ROW Chief may consider reasonable trade-offs for specific features when the replacement unit is “equal to or better than” the displacement dwelling.
3. adequate in size to accommodate the occupants.
4. in an area not subject to unreasonable adverse environmental conditions.
5. in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment.
6. on a site that is typical in size for residential development with normal site improvements, including customary landscaping; the site need not include special improvements such as outbuildings, swimming pools, or greenhouses.
7. currently available to the displaced person on the private market; however, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.
8. within the displaced person’s financial means:
 - a. replacement dwelling purchased by a homeowner in occupancy for at least 90 days before initiation of negotiations is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in Sec. 7.8.3 of this manual, all increased mortgage interest costs as described in Sec. 7.8.4 of this manual, and all incidental expenses as described in Sec. 7.8.5 of this manual plus any additional amount required to be paid under Sec. 7.10 of this manual (Replacement Housing of Last Resort);
 - b. replacement dwelling rented by an eligible displaced person is considered to be within that person’s financial means if, after receiving rental assistance under this part, that person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed that person's base monthly rental for the displacement dwelling as described in Sec. 7.9.2 of this manual; and
 - c. for a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if DOT&PF pays that portion of the monthly housing costs of a replacement dwelling that exceeds the person’s base monthly rent for the displacement dwelling as described in Sec. 7.9.2 of this manual; this rental assistance must be paid under Sec. 7.10 of this manual (Replacement Housing of Last Resort); and
9. for a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance; any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply.

compensable damages - damages (in eminent domain) that a condemnor is legally required to compensate a person (or entity) with an interest in the property being wholly or partially condemned; the Alaska Constitution, Sec. 18, provides that “Private property shall not be taken or damaged for public use without just compensation”, and Alaska courts have interpreted this liberally in favor of the private property owner;

compensation - See just compensation;

condemnation - the act or process of enforcing the right of eminent domain;

condemnation appraisal - an appraisal prepared specifically for an eminent domain action;

condemned - the taking of real property by a public agency through an eminent domain action;

consequential damages - damage to private property as a consequence of a taking or construction on other land;

consideration - the actual price for which a property is transferred; in appraising, usually the actual dollar price;

contingent and limiting condition - a listing of specific uses for an appraisal;

contract manager - a ROW Agent who manages professional services agreements;

contribute materially - during the two taxable years prior to the taxable year in which displacement occurs, or during some other period the Regional ROW Chief determines to be more equitable, a business or farm operation:

1. had average annual gross receipts of at least \$5,000;
2. had average annual net earnings of at least \$1,000; or
3. contributed at least 33-1/3% of the owner's or operator's average annual gross income from all sources.

If the application of the above criteria creates an inequity or hardship in any given case, the Regional ROW Chief may approve, in writing, the use of other criteria as determined appropriate on a case-by-case basis.

conveyance document - a document such as a deed or an easement that transfers title to DOT&PF;

corridor preservation - the acquisition of property for a future highway location;

cost approach - an appraisal method that uses the cost of construction to value an improvement;

cost estimate - the anticipated project cost;

cost-to-cure - an estimate of the cost to rebuild, rehabilitate, or replace an improvement to new or nearly new condition, to avoid or mitigate damages;

damages - in condemnation, the loss in value to the remainder resulting from a partial taking of a property; three types of damages are recognized: direct, consequential, and severance; damages are the mathematical difference between the value of the remainder as a part of the whole before the

acquisition, and the value of the remainder after the acquisition (as cured), disregarding any special benefits;

date of appraisal - the effective date on which the valuation is valid; it may be current (the date of the appraiser's last inspection is typically the date of appraisal), prospective (a future value), or retrospective (a "Date of Taking" established by the court in an eminent domain action);

date of final acceptance - the date that FHWA accepts the final billing on a project and closes the project;

decent, safe, and sanitary (DS&S)— a dwelling that meets applicable housing and occupancy codes; however, any of the standards found in [25 CFR 700.55](#) that are not met by an applicable code shall apply unless waived for good cause by the Federal agency funding the project.

declaration of taking - a document filed with the court in a condemnation action that vests title in the State;

demolition contract - a contract issued by DOT&PF to demolish improvements on acquired ROW;

Department of Law - the State of Alaska, Department of Law who employs lawyers as Assistant Attorneys General and the Attorney General, some of whom are assigned to assist DOT&PF with transportation matters;

depreciated value - the value of an improvement, taking into consideration its age and condition;

design life - the length of time that a construction project is expected to function at its designated capacity without major repairs;

diary - also known as the Record of Contact (ROC), a chronological written record of the Acquisition/Relocation Agent's activities regarding a parcel;

displaced person - any person who moves from real property or moves personal property from real property, including a person who occupies the real property before its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at Sec. 7.3 of this manual as a direct result of:

1. written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a project;
2. written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project; however, eligibility for such a person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under Sec. 7.4 of this manual and moving expenses under Sec. 7.14 of this manual.

A person is **not** considered displaced if they:

1. move before the initiation of negotiations, unless the Regional ROW Chief determines, in writing, that the person was displaced as a direct result of the program or project;
2. enter into occupancy of the property after the date of its acquisition for the project;
3. have occupied the property for the purpose of obtaining assistance under the Uniform Act;
4. are not required to relocate permanently as a direct result of a project, as determined by DOT&PF in accordance with any guidelines established by the Federal agency funding the project;
5. are an owner-occupant who moves as a result of a voluntary transaction or as a result of the rehabilitation or demolition of the real property, unless they are a tenant displaced as a direct result of any acquisition, rehabilitation or demolition for a Federal or Federally-assisted project as described in this manual;
6. are not displaced as a direct result of a partial acquisition as determined by the Regional ROW Chief;
7. after receiving a notice of relocation eligibility (described in Sec. 7.4 of this manual), are notified in writing that they will not be displaced for a

project (this notice may not be issued unless the person has not moved and the Regional ROW Chief agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility);

8. are an owner-occupant who voluntarily sells their property after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, DOT&PF will not acquire the property, unless they are a tenant displaced as a direct result of any acquisition, rehabilitation or demolition for a Federal or Federally-assisted project as described in this manual;
9. retain the right of use and occupancy of the real property for life after its acquisition by DOT&PF;
10. are determined to be an unlawful occupant before or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided in Sec. 7.4 of this manual (however, DOT&PF may provide advisory assistance to an unlawful occupant in order to facilitate a project); or
11. are not lawfully present in the United States and have been determined to be ineligible for relocation assistance in accordance with [49 CFR 24.208](#).

Division Realty Officer - the FHWA ROW Specialist located in the Alaska Division Office;

disposal - the sale of DOT&PF-owned property, or the rights therein, including access rights, when the property is no longer needed for DOT&PF or other transportation purposes, see also excess land and surplus land;

DNR - the State of Alaska, Department of Natural Resources;

donation - the voluntary transfer of privately owned real property, by a property owner who has been informed in writing by the acquiring agency of rights and benefits available to owners under the Uniform Act and this section, for the benefit of a public transportation project without compensation or with compensation at less than fair market value ([23 CFR 710.105](#));

DOT&PF - the State of Alaska, Department of Transportation & Public Facilities;

dwelling - the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house; a single-family unit in a two-family, multifamily, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit;

dwelling site - a land area that is typical in size for similar dwellings located in the same neighborhood or rural area;

early acquisition - acquisition of real property interests by an acquiring agency before completion of the review process required for the project under the National Environmental Policy Act of 1969 ([42 USC 4321](#) et seq.) and prior to receiving a Federal-aid authorization to proceed to acquire property with Federal-aid funds, before completion of the environmental review process for a proposed transportation project, as provided under [23 CFR 710.501](#) and [23 USC 108](#); generally early acquisition refers to acquisition other than advance purchases for hardship cases or protective buying; see also hardship case, protective buying, and advance acquisition;

easement - non-possessory interest in real property that conveys use, but not ownership, of a portion of an owner's property rights;

economic rent - the amount for which similar property is renting (market rent);

egress - the means of exiting a property;

eminent domain - the right of government to take (acquire) private property for a public purpose upon the payment of just compensation, see also condemnation;

encroachment - trespassing on the property of another;

encroachment permit - a written permit issued by DOT&PF to allow use of ROW;

Environmental Assessment (EA) - a document used on Federal-aid highway projects when the extent of environmental impact is uncertain; the EA results in either a Finding of No Significant Impact (FONSI) or a decision to develop an Environmental Impact Statement (EIS);

Environmental Impact Statement - also known as EIS, the formal statement included in every recommendation or report on proposals for major Federal describing significant effects on the quality of the human environment. EIS is "a detailed statement by the responsible official on:

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented." ([42 USC 4332](#));

estimate - in appraising, an adequately supported and documented opinion based upon analysis of market data by a qualified appraiser; a preliminary opinion of the cost of doing specified work;

excess land - land that is not needed to serve or support the existing project. The highest and best use of the excess land may or may not be the same as the highest and best use of the improved parcel. Excess land has the potential to be sold separately and must be valued separately, see also surplus land for differentiation of terms;

excess real property - real property that is not needed to serve or support the existing project, see also excess land and surplus land;

expressway - a divided arterial highway for through traffic, with full or partial control of access and with at-grade intersections;

FAA - Federal Aviation Administration, United States Department of Transportation;

FAST Act (Fixing America's Surface Transportation Act) - a funding and authorization bill to govern Federal surface transportation spending. PL 114-94, signed into law on December 4, 2015;

fair market value - market value and the basis for just compensation; the final estimate of value that most nearly represents what the typical, informed, rational purchaser would pay for the subject property if it were available for sale on the open market as of

the date of the appraisal, given all the data available to the appraiser in their analysis.

Of note, [23 CFR 710.403](#) (e) states, "...The term fair market value as used for acquisition and disposal purposes is as defined by State statute and/or State court decisions..." The Alaska Supreme Court has defined fair market value as "the price in (terms of) money that the property could be sold for on the open market under fair conditions between an owner willing to sell and a purchaser willing to buy, with a reasonable time allowed to find a purchaser." *State v. 7.026 Acres, Sup. Ct. Op. No. 601, 466 P.2d 364, 365* (1970). The opinion further reads, in part: "The highest and most profitable use for which the property is adaptable is to be considered, to the extent that the prospect of demand for such use affects the market value while the property is privately held." Fair market value is normally based on a parcel's fee simple value.

The Uniform Act and [49 CFR 24](#) refer to fair market value, while the Appraisal Foundation (USPAP) refers to market value. (See [49 CFR 24 Appendix A](#), and the current [USPAP](#).)

family - two or more individuals living together in a single-family dwelling unit who are related by blood, adoption, marriage, or legal guardianship, and who live together as a family unit, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit;

farm operation - any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support;

Federal agency - any department, agency, or instrumentality in the Executive Branch of the Federal government, any wholly-owned Federal corporation, and the Architect of the Capitol, the Federal Reserve Banks, and branches thereof;

Federal-aid project - a project funded in whole or in part under, or requiring an FHWA approval pursuant to provisions in [Chapter 1 of Title 23, United States Code](#), [[23 CFR 710.105](#) (b)];

Federally assisted - a project or program that receives grant funds under [Title 23, United States Code](#), [[23 CFR 710.105](#) (b)];

Federal financial assistance - a grant, loan or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual;

fee simple - the highest type of private ownership, subject to the limitations of eminent domain, escheat, police power and taxation; an inheritable estate;

fee simple title - a property title that signifies ownership of all the rights in a parcel of real property;

FHWA - the Federal Highway Administration, United States Department of Transportation;

FHWA Division Office - the FHWA office located in Juneau, Alaska;

final conclusion of value - the dollar amount that reflects the type of value sought; fair market value;

final environmental impact statement - the document prepared after circulation of a draft EIS, with consideration of comments thereon, and identifying the preferred alternative;

final estimate of value - final conclusion of value;

final judgment - a court order establishing the value of a property;

Finding of No Significant Impact (FONSI) - the document issued by the Federal agency involved when an Environmental Assessment indicates there are no significant impacts caused by the project;

fixture - a tangible thing that once was personal property, and that has been attached to land or installed in a structure in such a way as to become a part of the real property, as defined by current law and guidelines; in deciding whether a thing is personal or real property, consider:

1. intention of the party to leave it permanently attached or to remove it at some time;
2. manner in which it is attached; and
3. purpose.

See also; **personal property**;

freeway - a divided arterial with full access control and no at-grade intersections;

function of the appraisal - to assist in establishing the compensation to be paid a property owner for the acquisition of property interests required by DOT&PF;

general benefits - any benefits that are not special benefits;

grandfather rights - a legal nonconforming use of record;

hardship case - when property is acquired in advance of the remainder of a project because a property owner has established appropriate health, safety, or financial reasons; one example of advance acquisition;

hazardous materials - petroleum products and other substances designated as “hazardous” by the United States Environmental Protection Agency;

Highway Beautification Act of 1965 - signed into Federal law on October 22, 1965 as part of the America the Beautiful Initiative (Public Law 110-456), called for control of outdoor advertising, including removal of certain types of signs, along the Nation's growing Interstate System and the existing Federal-aid primary system, required certain junkyards along Interstate or primary highways to be removed or screened, and encouraged scenic enhancement and roadside development; see also [AS 19.25.075-AS 19.25.180](#);

historic preservation procedures - practices designed to protect historic sites, structures, and districts;

household income - the total gross income received for a 12-month period from all sources (earned and unearned), including, but not limited to, wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business; it does not include income received or earned by dependent children or full-time students under 18 years of age;

illegal junkyard - a junkyard established after the effective date of State law governing junkyards; it must be screened, removed, or eliminated at the owner's expense; this is accomplished under the State's police power;

income approach - an appraisal method using a property's income and expense data;

Indirect Cost Allocation Plan (ICAP) - a system of dedicating a percentage of project funds for nonspecific project activities;

industrial activities - activities permitted only in an industrial zone, or in a less restrictive zone by the nearest zoning authority but generally recognized as industrial by other zoning authorities, except that none of the following shall be considered industrial activities:

1. outdoor advertising structures;
2. agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;
3. activities normally and regularly in operation less than three months of the year;
4. transient or temporary activities;
5. activities not visible from the traffic lanes of the main traveled way;
6. activities more than 300 feet from the nearest edge of the main traveled way;
7. activities conducted in a building principally used as a residence;
8. railroad tracks, minor sidings and passenger depots; and
9. junkyards, as defined in [23 CFR 751.7 \(a\)](#);

ingress - the means of entering a property;

initiation of negotiations –

1. When displacement results from the acquisition of the real property, “initiation of negotiations” means the delivery of the initial written offer of just compensation by a Federal agency or DOT&PF to the owner or the owner's representative to purchase real property for a project; however, if a Federal agency or DOT&PF issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the “initiation of negotiations” means the actual move of the person from the property.
2. When displacement is caused by rehabilitation, demolition, or privately undertaken acquisition of real property (and there is no related acquisition by a Federal agency or DOT&PF), the “initiation

of negotiations” means the notice to the person that he or she will be displaced by the project, or, if there is no notice, the actual move of the person from the property.

3. For a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA, Public Law 96-510, or “Superfund”) the “initiation of negotiations” means the formal announcement of such relocation.
4. For a permanent relocation of a tenant as a result of an acquisition of real property, the initiation of negotiations means the actions described in (1) or (2) of this definition, except that the initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for those tenants until there is a written agreement between DOT&PF and the owner to purchase the real property.

Interim Conveyance - a temporary title conveyance from BLM to a Native corporation until final title passes;

International Right-of-Way Association - an international professional organization dedicated to the advancement of ROW and land acquisition work as a fully-recognized profession;

Interstate Highway System - a network of limited access, divided highways within the United States;

IRIS number - the project number assigned from the Integrated Resource Information System (IRIS), the current repository for project financial records. IRIS and IRIS numbers are replacing Alaska State Accounting System (AKSAS) and AKSAS numbers;

IRS - the United States Internal Revenue Service;

junk - used or scrap rope, rags, batteries, paper, trash rubber, debris or waste, junked, dismantled, or wrecked automobiles, or parts thereof, or used or scrap iron, steel, copper, brass and other ferrous or nonferrous metals;

junkyard - an establishment or place of business, private or public, that is maintained, operated, or used primarily for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard; the term includes garbage dumps and

sanitary fills, and gatherings in equivalent volume of 10 or more vehicles;

just compensation - in condemnation, the amount of loss that a property owner is to be compensated for when property is taken or acquired for a public purpose; market value is an appropriate measure of just compensation as guaranteed by the Alaska Constitution;

land/improvement allocation - the property value split between land value and improvement value;

land valuation - an appraisal method for determining how much land is worth;

larger parcel - as defined by *The Dictionary of Real Estate Appraisal* (published by the Appraisal Institute) means:

- “1. *In condemnation, that tract or tracts of land which are under the beneficial control of a single individual or entity and have the same, or an integrated, highest and best use. Elements for consideration by the appraiser in making a determination in this regard are contiguity, or proximity, as it bears on the highest and best use of the property, unity of ownership, and unity of highest and best use.*
- “2. *In condemnation, the portion of a property that has unity of ownership, contiguity, and unity of use, the three conditions that establish the larger parcel for the consideration of severance damages in most states. In Federal and some State cases, however, contiguity is sometimes subordinated to unitary use.”*

last resort housing - housing provided when comparable replacement housing is not available for an owner or tenant;

leasehold interest or lessee - a person who occupies real property under a lease;

legally conforming lot - a lot that is of sufficient size and shape to meet local zoning requirements;

legal nonconforming use of record - a parcel that is subject to grandfather rights;

letter of final offer and intent to condemn - the last formal contact from DOT&PF to a property owner before beginning an eminent domain action;

Local Public Agency (LPA) - a city or borough government acting in DOT&PF's place and stead in carrying out the purposes of this manual;

logical boundary - partial acquisition of a parcel with the boundary extended beyond what is needed for the project to a point where the remainder property is viable by itself;

MAP-21 (Moving Ahead for Progress in the 21st Century Act) - a funding and authorization bill to govern Federal surface transportation spending. PL 112-141, signed into law on July 6, 2012 (effective October 1, 2014) affecting acquisition and relocation benefits under the Uniform Act;

market value - see fair market value;

Market Value Deposit - the amount that DOT&PF deposits with the court for an eminent domain action;

Masters' Award - compensation that is due a property owner after a hearing by a court-appointed Master;

Masters' Report - the document issued by a court-appointed Master after a hearing;

materials agreement - an agreement between DOT&PF and a property owner for the property owner to supply construction materials;

material source (MS) - the location of natural building materials such as gravel, rock, and sand;

mediated settlement - an acquisition agreement reached with a property owner by someone other than the ROW Agent before initiating a condemnation action;

mitigation - an effort by DOT&PF to minimize damages to the remainder of a partial acquisition;

mitigation property - real property interests acquired to mitigate for impacts of a project eligible for funding under [Title 23, United States Code](#), [23 CFR 710.105 (b)];

mobile home - includes manufactured homes and recreational vehicles used as residences;

mortgage - classes of liens commonly given to secure advances on, or the unpaid price of, real property, under the laws of the state in which the real property is located, together with the credit instruments, if any, secured thereby;

move specifications - a detailed agreement between a displaced person and DOT&PF on how a move will be accomplished;

NEPA - National Environmental Policy Act of 1969 (NEPA) is "a national policy intended to encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality" ([42 USC 4321](#) et seq.);

narrative appraisal report - a formal property valuation document;

National Highway Institute (NHI) - A branch of FHWA that provides training, and funding for training, in transportation-related subjects;

negotiated settlement - an acquisition agreement between DOT&PF and a property owner;

National Highway System (NHS) - developed by the US Department of Transportation in cooperation with the States, local officials, and metropolitan planning organizations, consists of roadways important to the nation's economy, defense, and mobility, including the Interstate System; Other Principal Arterials; Strategic Highway Network (STRAHNET), Major Strategic Highway Network Connectors, and Intermodal Connectors subsystems;

net damages - the amount that is arrived at by deducting special benefits from damages;

noncompensable damages - items of property damage that are excluded from payment by State or Federal rules;

nonconforming appraisal - an appraisal that is not in conformance with the standards for appraisals set out in this manual;

nonconforming junkyard - a junkyard that was lawfully established, but that does not comply with the provisions of State statutes or regulations passed at a later date or that later fails to comply with State statutes or regulations due to changed conditions; an example of changed conditions would be a junkyard lawfully in existence in an area that at a later date becomes nonindustrial and thus subject to control or a junkyard established on a non-primary highway later

upgraded to a primary highway; illegally established or maintained junkyards are not nonconforming junkyards; a nonconforming junkyard may continue if it is not abandoned, destroyed, or voluntarily discontinued; if a junkyard is abandoned, destroyed, or voluntarily discontinued for six months or more, it becomes subject to laws applicable to a new junkyard;

nonconforming use - a property usage that does not conform to zoning;

nonparticipating funds - expenses on a State-funded or Federally-funded project that are ineligible for reimbursement by the funding agency;

nonprofit organization - an organization that is incorporated under the applicable laws of Alaska as a nonprofit organization, and exempt from paying Federal income taxes under Sec. 501 of the Internal Revenue Code (26 USC 501);

notice of intent to acquire or notice of eligibility for relocation assistance - written notice furnished to a person to be displaced, including a person to be displaced by rehabilitation or demolition activities from property acquired before a commitment of Federal financial assistance to the activity, that establishes eligibility for relocation benefits before the initiation of negotiation and/or before the commitment of Federal assistance;

OMB - the State or Federal Office of Management and Budget;

order of dismissal - a court-ordered dismissal of a condemnation action;

order of possession and entry - a court order that vests title to property in a condemnation action;

orderly liquidation value - value for removal or salvage;

oversight agreement - an agreement between FHWA and DOT&PF that sets out the responsibilities that DOT&PF will assume on behalf of FHWA under Title 23 for design, plans, specifications, estimates, ROW certification statements, contract awards, and final inspection of projects;

owner - the holder of a legal or equitable title interest or leasehold interest;

owner of a dwelling - a person is considered to have met the requirement to own a dwelling if the person

purchases or holds any of the following interests in real property:

1. fee title, a life estate, a land contract, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition;
2. an interest in a cooperative housing project that includes the right to occupy a dwelling;
3. a contract to purchase any of the interests or estates described in subparagraphs (1) or (2) of this paragraph; or
4. any other interest, including a partial interest, which in the judgment of DOT&PF warrants consideration of ownership;

parcel - a DOT&PF defined area of real estate from which some right of interest must be acquired for a particular project in order to satisfy all State or Federal requirements. After the area of the parcel has been determined, the type of title needed by DOT&PF is determined and the acquisition is designated as one of the following:

- parcel - indicates an acquisition in fee title. The instrument is recorded;
- easement - indicates DOT&PF will have some acquired use of the property, but less than full title. The instrument is recorded;
- tract - indicates a fee title (usually) acquisition for airport projects. The instrument is recorded;
- temporary construction permit - for an area to be used during construction of a project, and is of mutual benefit to the owner and DOT&PF. After completion of construction, use of the property reverts to the original owner. No recording is necessary; and
- temporary construction easement - for an area needed by DOT&PF for construction of a project, but DOT&PF does not require title to the property after construction. The instrument is usually recorded.

parcel plat - a drawing of a property that shows physical details;

parcel file - the official file that contains all documents pertaining to a particular parcel on a project;

parcel review report - the report prepared by the Pre-Audit Agent to ensure that all documentation is present and in agreement before transmitting payment to the owner;

parkland - publicly-owned park or recreation area;

partial acquisition - the acquisition of less than an entire property;

participating funds - an expense on a Federally-funded project that is eligible for reimbursement by the funding agency;

PDA - Project Development Authorization, an authorization form that establishes or revises funding for a project;

permanent document file - the file containing all property transfer documents that are to be retained permanently under the Alaska's records retention laws;

perpetual easement - an easement that remains affixed permanently to a property;

person - any individual, family, partnership, corporation, or association;

personal improvement - non-real property items on a property, such as a mobile home, trade fixtures, etc.

personal property - identifiable portable and tangible objects that are considered by the general public as being "personal"; generally, and with exceptions, items remain personal property if they can be removed without serious injury to the real property or to the item itself; if doubt exists, contact the Department of Law, see also fixture;

Phase 2 - for funding purposes, the phase of a project when project design is completed;

Phase 3 - for funding purposes, the phase of a project when the project property acquisition is complete;

plans-in-hand inspection - a team review of project plans, generally onsite;

plot plan - parcel plat;

Pre-Construction Engineer - the person in the DOT&PF position that supervises project activities from design to construction;

preliminary engineering - a phase of project development that may include reconnaissance,

environmental documentation, design, and development;

pre-trial settlement report and recommendation - a document prepared by the Department of Law on parcels that have been referred to that agency for condemnation action;

primary highway system - the principal State Highway System before establishment of the National Highway System;

professional services contract - a contract with a private contractor to perform ROW activities for DOT&PF;

Project and Market Data Book - a compilation of comparable sales data used to appraise properties on a project;

project certification - a formal statement that all ROW for a project has been acquired or is accounted for, and all persons and businesses have been relocated, and is free and clear of all encroachments;

Project Development Authorization (PDA) - an authorization form that establishes or revises funding for a project;

Project Engineer - the DOT&PF engineer in charge of constructing a project;

project enhancement - an increase in real estate values in advance of acquisition that is created by knowledge of a pending public improvement;

protective buying - purchasing a parcel to prevent imminent development and increased costs for a future project, preserving a corridor for a future highway location, or providing access management; one example of advance acquisition;

Property Management Unit - the ROW unit that is responsible for property acquired for a project before construction of a project, managing encroachments and permits after a project is completed, and for property that is in excess of project needs;

public facility - a facility owned by the State of Alaska;

purchase voucher - the means by which payment is made for acquired ROW;

purpose of the appraisal - the reason for performing an appraisal (as stated in the appraisal assignment); i.e., to define the real property interests and value to

be appraised; the purpose of an appraisal is based on DOT&PF's need for information about the value of a real property interest; the purpose of an appraisal report defines the type of value being sought (e.g. “to estimate market value of the real property being appraised”); for partial acquisitions, the purpose of the appraisal is to:

1. estimate the market value of the entire parcel;
2. estimate the market value of the part acquired as a part of the total parcel before the acquisition; and
3. estimate the market value of the remainder property plus damages (offset by special benefits, if any) and any applicable “cost to cure”.

quarterly condemnation report - a document prepared by the Department of Law each quarter, describing the status of parcels involved in condemnation actions;

range of value testimony - testimony presented at a condemnation hearing by appraisers regarding property values;

real improvement - a structure permanently attached to the land;

real property or real property

interest - [23 CFR 710.105](#) (b) defines real property or real property interest as “any interest in land and any improvements thereto, including fee and less-than-fee interests such as: temporary and permanent easements, air or access rights, access control, options, and other contractual rights to acquire an interest in land, rights to control use or development, leases, and licenses, and any other similar action to acquire or preserve ROW for a transportation facility. As used in this part, the terms “real property” and “real property interest” are synonymous unless otherwise specified”;

receive and expend account - an account used by Property Management Unit to handle project revenues and expenditures;

record of contact - an acquisition or Relocation Agent’s diary for a parcel;

Record of Decision – also known as ROD, the formal decision document recorded by FHWA for the public, the ROD signals formal federal approval of an Environmental Impact Statement (EIS) or Environmental Assessment (EA) concerning a proposed highway project and is the final action prior to implementation. The ROD authorizes the respective

state transportation agency to proceed with design, land acquisition, and construction based on the availability of funds;

Recorder’s Office - the State of Alaska offices located in the various recording districts where documents affecting real estate are recorded;

recording district - a statewide recording system that consists of 34 districts serviced by 14 recording offices, including three administered by the Court System;

Regional Design Section - a DOT&PF section responsible for designing projects to be constructed;

Regional Director - appointed by the Commissioner to manage all aspects of DOT&PF activities within each of the three regions in Alaska; Northern, Central and Southcoast.

Regional ROW Chief - the ROW Agent in charge of one of DOT&PF’s regional ROW sections;

relinquishment - the conveyance of a portion of a transportation facility from DOT&PF to another government agency for transportation purposes;

Relocation Agent - the ROW Agent with responsibility for relocation activities regarding relocating displaced parties;

relocation benefits - the payments and assistance provided by DOT&PF to individuals and businesses displaced by the acquisition of property for a project;

relocation plan or relocation planning - the advance project plan for how individuals and businesses displaced by a project will be relocated;

remainder - in eminent domain, property remaining in possession of the owner after a partial taking;

remainder value - the value of the remaining property as a part of the whole;

remainder value after acquisition - the market value of the remaining property after acquisition (as a separate stand-alone parcel, as if cost-to-cure items have been completed);

restrictive covenant - an agreement that restricts the use and occupancy of real estate;

retention value estimate - the salvage and removal value that is established if a property owner wants to keep an improvement;

reversionary clause - the right to repossess and resume full and sole use and ownership of real property;

Reviewer’s Recommendation of Just Compensation (formerly determination) - the amount of just compensation established by the Review Appraiser after review of all available appraisal data;

right of way (ROW) vs. rights of way – industry-specific terms used to differentiate between the physical noun (a property or location/site “right of way”) versus the rights of use held (“rights of way”); hyphenation is applied only when the terms are used as adjectives (“right-of-way limit”, etc.);

right-of-way (ROW) certification - the statement signed by the Regional ROW Chief before construction, certifying project certification. [23 CFR 710.105](#) (b) defines *ROW use agreement* as “real property interests, defined by an agreement, as evidenced by instruments such as a lease, license, or permit, for use of real property interests for non-highway purposes where the use is in the public interest, consistent with the continued operation, maintenance, and safety of the facility, and such use will not impair the highway or interfere with the free and safe flow of traffic (see also [23 CFR 1.23](#)). These rights may be granted only for a specified period of time because the real property interest may be needed in the future for highway purposes or other purposes eligible for funding under [Title 23, United States Code](#)”;

road dedication - a voluntary gift of private property to be used as a public road;

road transfer - the transfer of ownership of a road from DOT&PF to another government agency;

rural environment - a sparsely populated area where the majority of land is:

- not subdivided;
- located outside corporate city limits; or
- located inside the corporate limits of a city with a population of 5,000 or less;

sales comparison approach - an appraisal method that uses the sales of properties comparable to the subject property;

sale of excess land - the sale of land acquired for a project that is beyond what is needed for project construction;

salvage value - the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing reasonable time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis;

scope of the appraisal - a description of the extent of the process of collecting, confirming, and reporting data;

screening - shielding from view;

set-off rule - in eminent domain, the rule governing the “setting off” of special benefits against the part taken or damages; Alaska's rule allows setting off special benefits against damages to the remainder only;

settlement - an agreement with a property owner to sell property to DOT&PF, [23 CFR 710.105](#) (b) defines settlement as “the result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following:

- (1) An *administrative settlement* is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official.
- (2) A *legal settlement* is a settlement reached by an authorized legal representative or a responsible official of the acquiring agency who has the legal power vested in him by State law, after filing a condemnation proceeding, including agreements resulting from mediation and stipulated settlements approved by the court in which the condemnation action had been filed.
- (3) A *court settlement or court award* is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount

of just compensation for a taking under the laws of eminent domain”;

severance damages - in a partial taking, a decline in the market value of the remainder that arises from the taking (severance) and/or construction of the proposed improvement;

small business - a business with at least one, but not more than 500 employees working at the site being acquired or displaced by a program or project;

special benefits - benefits that are specific to the property remaining after a partial taking, and not generally benefiting other properties on the project;

specialty report - an appraisal report requiring technical expertise for an uncommon property;

split estate lands - where different people own rights to a property, such as one owning the surface rights and another owning the subsurface rights;

Statewide ROW Chief - the person who is in charge of the DOT&PF ROW headquarters office;

Statewide Transportation Improvement Program (STIP) - DOT&PF’s four-year plan for initiating Federal-aid highway project activities, by phase, for a given year;

statutory designated program receipts - money received by DOT&PF that is covered by a specific Alaska statute governing that money;

stipulated settlement - an acquisition made by the Department of Law before going to trial;

subject - the property being appraised;

subsurface easement - the right to use the property below the land surface;

surplus land - land that is not currently needed to support the existing improvement but cannot be separated from the property and sold. Surplus land does not have an independent highest and best use and may or may not contribute to the improved parcel, see also excess land for differentiation of terms;

Surplus Property Transfer - a means of disposing of property that is excess to the project needs;

take or taking - the ROW needed from a property for a ROW project;

Tax Identification Number (TIN) - a number assigned by the IRS and used to identify a person

receiving some type of payment; often the person’s Social Security number;

Technology Transfer Section - DOT&PF’s section that is responsible for coordinating training for the department and LPAs;

tenant - a person who has the temporary use and occupancy of real property owned by another; a subsequent tenant is one who moves into the property being acquired before it is actually acquired, but does not meet the 90-day occupancy requirement;

Tentative Approval (TA) - passes title of land from BLM to the State prior to cadastral survey. This gives the State full management authority of the land. Once surveyed, the deed is issued as a Quit Claim Deed;

third-party interest - any person other than a tenant or owner who holds an interest in real property;

title examiner - a person who determines ownership of property;

title report - also referred to as a title opinion, title search, or title search report; the report of a title examiner;

transitional slope - the change from the original ground level to the built-up area of a project;

Transportation Attorney - an Assistant Attorney General at the Department of Law assigned to assist DOT&PF with transportation matters;

transportation enhancement activity or site - an activity or site covered by the Transportation Enhancement program for the purpose of preserving and enhancing significant natural and cultural resources and transportation decisions; eligible activities include land acquisition, construction, and certain non-construction costs; categories are:

1. facilities for bicycles and pedestrians;
2. acquisition of scenic easements and scenic or historic sites;
3. scenic or historic highway programs;
4. landscaping and other scenic beautification;
5. historic preservation;
6. rehabilitation and operation of historic transportation buildings, structures or facilities, including historic railroad facilities and canals;

7. reservation of abandoned railway corridors, including conversion and use for pedestrian and bicycle trails;
8. control and removal of outdoor advertising;
9. archaeological planning and research;
10. mitigation of water pollution due to highway runoff or vehicle caused wildlife mortality while maintaining habitat connectivity;
11. provision of safety and education activities for pedestrians and bicyclists; and
12. establishment of transportation museums;

trial de novo - a new trial;

trial report - a document prepared by the Department of Law after a condemnation trial;

trustee deed - a deed from BIA as trustee for a Native American allottee;

uneconomic remnant - property that is of little or no value or use to the owner after a partial acquisition;

Uniform Act - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; [42 USC 4601 et seq.](#); Pub. L. 91-646), as amended (amended in 1987 as part of Public Law 100-17; in 1991 as part of Public Law 102-240; and in 1997 as part of Public Law 105-117, and together referred to as the “Uniform Act”);

Uniform Standard of Professional Appraisal Practices (USPAP) - the generally recognized ethical and performance standards for the appraisal profession in the United States. Adopted by Congress in 1989 and updated every two years, USPAP contains standards for all types of appraisal services including real estate, personal property, business, and mass appraisal. Compliance is required for State-licensed and State-certified appraisers involved in Federally-related real estate transactions. USPAP may be obtained online from the Appraisal Foundation at <https://appraisalfoundation.org>;

unlawful occupancy or unlawful occupant - a person is considered to be in unlawful occupancy if the person has been ordered to move by a court before the initiation of negotiations or is determined by DOT&PF to be a squatter occupying the real property without the owner’s permission and otherwise has no legal right to occupy the property; the Regional ROW

Chief may, after consulting with the Department of Law, consider the squatter to be in lawful occupancy;

unzoned industrial area - the land occupied by the regularly-used building, parking lot, storage or processing area of an industrial activity, and that land within 1,000 feet thereof that is:

1. located on the same side of the highway as the principal part of said activity;
2. not predominately used for residential or commercial purposes; and
3. not zoned by State or local law, regulation or ordinance.

USC – United States Code; the Code of Laws of the United States of America (also sometimes abbreviated to Code of Laws of the United States, United States Code, U.S. Code, U.S.C., or USC), the official compilation and codification of the general and permanent Federal statutes of the United States. The USC is searchable online at <http://uscode.house.gov/search/criteria.php>;

USFS - United States Forest Service, Department of Agriculture, United States Department of Agriculture;

USFWS – United States Fish and Wildlife Service, United States Department of the Interior;

utility costs - expenses for electricity, gas, other heating and cooking fuels, water, and sewer;

utility facility - any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system; a utility facility may be publicly, privately, or cooperatively owned;

utility relocation - the adjustment of a utility facility required by the project undertaken by DOT&PF; it includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary ROW on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures; it also means constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction;

valuation - the estimate of just compensation;

value indicator - an item that suggests the worth of something;

value premise - in appraisal, one of three indicators of value: the cost approach, the income approach, and the market approach;

voluntary transaction - a person is considered not to be displaced who voluntarily sells property if all of the following conditions are present:

1. no specific site or property needs to be acquired, although DOT&PF may limit its search for alternative sites to a general geographic area; if DOT&PF wishes to purchase more than one site within an area, all owners are to be treated similarly;
2. the property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits;
3. DOT&PF will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed; and
4. DOT&PF shall inform the owner of what it believes to be the fair market value of the property.

waiver valuation - the abbreviated alternative valuation process permitted and the resulting product when DOT&PF determines that a full appraisal is not required.

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