

2. Administrative Procedures

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2.1. Introduction

This chapter covers general administrative procedures for the ROW Section, such as obtaining Authority to Proceed (ATP), preparing and submitting periodic reports, maintaining project files, certifying the project ROW, contracting with private consultants, and managing employee training.

Chapters 3-11 each cover one major ROW activity (title and plans, appraisals, etc.). However, administrative procedures are involved throughout the project. Therefore, this chapter covers activities that span the entire ROW process. The general processes and project phases are discussed in Ch. 1. For more detailed information on a particular ROW activity, please refer to the appropriate chapter.

2.1.1. State-Funded Projects

State-funded projects are projects with no Federal funding for any phase (planning through construction) of the project. For uniformity, ROW procedures for State-funded projects are based on the Uniform Act and will generally follow the procedures set out in this Manual. However, since the Uniform Act does not specifically apply to State-funded projects, monetary incentives and streamlined authorization and approval levels should be implemented.

The process for projects designated as State-funded is set out in Sec. 490 of the [Alaska Highway Preconstruction Manual](#). The Project Development Authorization (PDA) designates the project funding source, i.e. State or Federal. See Ex. 2-1.

As soon as the project corridor is identified, you may commence with ROW title work and ROW plans development.

2.2. ROW Work Performed in Phase 2

With approval from the Regional Preconstruction Engineer, or their designee, DOT&PF may conduct certain acquisition activities prior to Phase 3 including through and after Environmental Document Approval. Though these activities normally occur in Phase 3, it may be beneficial in some cases to conduct title searches, valuations (by waiver or appraisal), preliminary property map preparation, relocation planning activities, appraisal review, and other related ROW activities earlier. The guidelines for conducting this type of work early are outlined in [23 CFR 710.203](#). ROW activities involving contact with affected parties for purposes of negotiation and relocation assistance must normally be deferred until after the Environmental Document approval, except as provided in [23 CFR 710.501](#) (early acquisition) and [23 CFR 710.503](#) (protective buying and hardship acquisition).

Staff must carefully weigh the risks and benefits associated with conducting ROW activities early. Risks include delays to project delivery, increased expenses, excess acquisitions not eligible for reimbursement, and duplicative work due to:

- design changes affecting the parcels to be acquired;
- appraisals going stale (or market conditions changes affecting property values) before the initiation of negotiations; and
- comparability and availability of relocation properties changing.

Benefits to conducting ROW activities before a typical acquisition phase may include:

- expediting the acquisition process by engaging in preparatory activities early;
- beginning acquisition activities early in an off season when services are in lower demand or when weather is more compatible;
- acquiring when a parcel is offered for sale or as a donation (early acquisition);

- early relocations affording affected parties more time to identify replacement housing;
- protective buying (advance acquisition, see Sec. 2.3.4); or
- property owner hardship (advance acquisition, see Sec. 2.3.4).

When advising the Preconstruction Engineer to authorize early acquisition activities it is important to understand that the appraisal costs for any parcels not included within the final design for the project could be coded as nonparticipating costs. Another option would be to request authorization to appraise and advertise the appraisal contract but not award the contract until final design approval for the project has been given.

Authority to acquire parcels in full may also be authorized by FHWA in Phase 2 once they have approved the Environmental Document.

The design Project Manager must notify the ROW Section when to provide a cost estimate for preliminary ROW activities approved by the Preconstruction Engineer and incidental work in Phase 2 such as temporary construction easements or hardship acquisitions and when to begin working on a project. The ROW agent or Pre-Audit Unit provides the cost information to the design Project Manager. This information is submitted on a PDA by the Project Manager to document certain ROW work done in Phase 2.

For projects where no permanent property rights are being acquired but temporary construction easements are necessary, those parcels may be acquired in Phase 2 provided all the following conditions are met:

- Environmental Document has been approved as a Categorical Exclusion (CE);
- temporary interest will not exceed 3 years;
- Phase 3 has not been opened and is not anticipated to be requested;
- value of the parcel is less than \$35,000 and the waiver valuation process will be utilized;
- total sum of the temporary construction easements for the project will not exceed \$150,000; and

- funding request clearly notes the acquisition of temporary construction easements (TCE) and that these conditions, as outlined, are met.

If any of these conditions cannot be met, then parcels will need to be acquired under Phase 3 authority.

2.3. ROW Work Performed in Phase 3

2.3.1. Federal-Aid Highway Projects

For Federal-aid highway projects, ATP for appraisal and acquisition must be obtained before beginning Phase 3 ROW work. ROW provides a current ROW cost estimate (Sec. 2.9.1) to be included with each request for ATP. Ch. 6 details the acquisition process.

2.3.2. Federal-Aid Aviation Projects and Projects Funded Fully with State Funds

There is no formal Federal authority to proceed with acquisition required for aviation projects or for State-funded projects. Authorization is required from the Regional Preconstruction Engineer (typically after the Environmental Document is approved).

2.3.3. Project Certification and Authority to Advertise

For FHWA and FAA projects, the Project Manager or contracts officer (depending on regional policy) prepares the Project Certification and the Authority to Advertise (ATA) when the PS&E is complete. The ATA only occurs after the Regional Preconstruction Engineer approves the Project Certification.

The Regional ROW Chief signs the Project Certification to confirm that the ROW has been certified. This means that all necessary ROW for a project has either been acquired or that provisions have been made for its acquisition. See Sec. 2.7.

2.3.4. Federal Project Advance and Early Acquisition

In some cases, parcels may be purchased in advance of a project. Advance acquisition is acquiring one or more parcels for a project before the normal sequence of acquisition events, generally for a hardship case or protective buying, or by donation. Early acquisition is acquisition of real property interests 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](#). FAA does not have an early acquisition process. FHWA may approve advance or

early acquisition for a highway project in certain situations, as explained in the remainder of this section.

FHWA approval of advance acquisition is specific *only* for each parcel listed as a hardship case or protective buying.

Other project parcels must receive the standard FHWA ATP with appraisal and acquisition.

Detailed, careful consideration of advance or early acquisition is necessary. The Regional ROW Chief should consider budget, staff, and other resource constraints (since early acquisition is a drain to both) and should clearly defend (and support in writing) the advantage of purchasing the properties before the normal sequence of acquisition events. See [23 CFR 710.501](#) for the justification requirements.

Hardship Cases and Protective Buying

For hardship cases, the property owner must have documented health, safety, or financial reasons for determining that hardship exists.

Protective buying involves purchasing to prevent imminent development and increased costs for a future project, preserving a corridor for a future highway location, or providing access management.

The Regional ROW Chief may request Federal participation of a parcel within a proposed highway corridor before the NEPA process is complete, but the acquisition process must meet various conditions. See Ch. 6 and [23 CFR 710.503](#).

Corridor Preservation and Access Management

To preserve a corridor for a future highway location, or to provide access management, DOT&PF may acquire ROW before executing a Federal-aid (project) agreement with FHWA. Acquisition costs are not eligible for Federal-aid reimbursement but they may become eligible as a credit toward the State's share of a Federal-aid project, with varying applicable criteria.

2.3.5. Acquisition Incentive Program

The Acquisition Incentive Program is intended to reduce project time and potentially costs by offering property owners an incentive above the approved just compensation for timely acceptance of the offer to acquire their property. Ch. 6 prescribes procedures for approving and applying the Acquisition Incentive Program.

2.4. Contracts with Local Public Agencies or Private Consultants

2.4.1. Local Public Agencies (LPAs)

The Regional ROW Chief may enter into written agreements or contracts with local government entities.

Subgrantees must also follow the requirements of this manual and the applicable provisions within United States Codes, Code of Federal Regulations, Alaska Statutes, and Alaska Administrative Code. Contracts should reference this requirement and a statement that DOT&PF will oversee the work and review files.

2.4.2. Private Consultants

The Regional ROW Chief may enter into contracts with private consultants to acquire ROW for Federal-aid projects. The Regional ROW Chief sends an informational copy of each appraisal contract to the Statewide ROW Chief or designee. The contract may be for individual project activities or the complete project, with the exception of the following functions:

- appraisal review function (which is conducted or overseen by DOT&PF headquarters except at the express permission given at discretion of the Statewide Right-of-Way Chief to contract to private consultants);
- preparation of waiver valuations unless specified in the contract and approved by the Regional ROW Chief; and
- approval of waiver valuations (which must be approved by the Regional ROW Chief).

The Regional ROW Chief ensures that consultants are in compliance with the contract, the Uniform Act, and this Manual. Regional ROW staff monitors all contract activities and payments for compliance except for contracts for appraisal review, which are monitored by Statewide Appraisal and Review Group.

Contractors must also follow the requirements of this manual and the applicable provisions within United States Codes, Code of Federal Regulations, Alaska Statutes, and Alaska Administrative Code. Contracts should reference this requirement and a statement that DOT&PF will oversee the work and review files.

2.5. Right-of-Way Project Files

The Regional ROW Chief ensures that the official active project files are kept current with all necessary documentation.

Here is a list of the necessary information required for each project (in suggested filing order):

1. Project General Correspondence File: contains project authorities, plan approvals, multi-parcel correspondence, appraisals, waiver valuations, and negotiations, and negotiation assignments.
2. Parcel Acquisition Files:
 - a. left side of the parcel acquisition file contains general correspondence relating to the parcel. See Ch. 6 for more on acquisitions; and
 - b. right side of the parcel acquisition file is “built up” as follows (see Ch.6):
 - 1) title information;
 - 2) original appraisals or waiver valuations;
 - 3) Right-of-Way Chief’s Determination of Just Compensation ([Form 25A-R505](#)) with tagged divider sheet on top;
 - 4) acquisition agent assignment;
 - 5) property management, if any, with divider sheet on top;
 - 6) retention value estimate;
 - 7) rental agreement(s);
 - 8) Bill(s) of Sale or Demolition Contract;
 - 9) negotiation correspondence, (market value letter, counteroffers, and administrative settlement approvals);
 - 10) [Notice to Relocation Form 25A-R607](#);
 - 11) Diary & Record of Negotiations;
 - 12) deeds or condemnation documents;
 - 13) purchase voucher(s); and
 - 14) parcel review report.
3. Relocation Parcel File: A separate relocation parcel file containing all required documentation (discussed in Ch. 7) is maintained for each parcel requiring relocation as follows:
 - a. left side of file folder: parcel relocation correspondence by date;
 - b. right side of file folder: completed relocation forms/purchase vouchers in chronological

order. If there is more than one displaced person, tabbed divider sheets should be used to separate displaced person units;

- c. [Relocation Parcel Review Report Form 25A-R240](#) should be on top of each unit; and
 - d. a copy of the relocation planning documents or reference to where the relocation study file is maintained and a log of updates to the study.
4. Appraisal Contract File: there is one contract file for each contract issued. The file contains the original contract, all amendments, notices to proceed, invoices, payment vouchers, etc. See Ch. 4 for appraisals.
 5. Condemnation File: there must be a separate condemnation file containing all correspondence between DOT&PF and the Department of Law. This file is privileged and should be marked “CONFIDENTIAL-ATTORNEY-CLIENT PRIVILEGE” so that it is clear that release of the information is restricted from [Freedom of Information Act](#) requests in the manner prescribed by the Alaska Public Records Act ([AS 40.25.120\(a\)\(4\)](#) and [\(a\)\(12\)\(A\)](#)). See Ch. 6 for condemnations.

2.5.1. Project Records Retention

ROW plans, property deeds, survey field books, and other documents that are evidentiary to property boundaries and ownership are vital records and must be permanently retained.

The regional office must retain documentation of land acquisition and disposition, including negotiated purchases, condemnation, and relocation, in accordance with [23 CFR 710.201\(e\)](#).

The Regional ROW Chief may dispose of original records otherwise retained on electronic or other media. The required length of retention applies, regardless of the media used. The Statewide Appraisal and Review Group in the Statewide Real Estate/Right-of-Way Group acts as the official repository for and custodian of all appraisals, appraisal reviews, and associated work files, which must be maintained in accordance with the appropriate retention schedules. See Ch. 4.

2.6. Reporting Land Sales to the Internal Revenue Service

The ROW agent must request the Tax Identification Number (TIN), which is generally the Social Security number, from each owner, sole proprietor, or partnership for each parcel being acquired with a market value or settlement of \$600 or more (a corporation's TIN is not required for IRS reporting). The \$600 or more acquisition cost applies to the transaction as a whole. Therefore, even if the settlement is divided among several owners, each must be reported. Only one TIN is needed for a husband and wife. See Ch. 6.

IRS Form 1099-S must be submitted to the IRS. Report each parcel acquired for \$600 or more in the calendar year in which title passed to DOT&PF. The amount of compensation to be reported is as follows:

- total acquisition amount, which could include cost-to-cure and damages (It is up to the property owner to confer with a tax person to define what portion of the payment is reported to the IRS as income. DOT&PF reports the total amount paid for each parcel when the transaction is settled without an eminent domain action.); and
- amount withdrawn from the court registry for each parcel when eminent domain action is necessary. (This may include the deposit made available to the condemnee at the time the Department of Law files the Declaration of Taking.)

Form 1099-S is required for acquisitions only, not for relocation payments. Mail the forms so that they reach the property owner by the date specified by the IRS.

At the end of each calendar year, the Regional ROW Section reviews the condemnation cases filed for that year, creating a list by Civil Case Number and calling the Clerk of Court for the judicial district within which the case was filed to verify what amount was withdrawn from the court during the calendar year. If money was withdrawn, the Pre-Audit Unit reports the amount. If no money was withdrawn, the Pre-Audit Unit tracks for the next calendar year.

2.7. Right-of-Way Certification and Relocation Program Assurances

To request ATP through Construction, the Regional ROW Chief completes the right-of-way section of the Project Certification Form. See the Alaska [Highway](#)

[Preconstruction Manual](#). Using this form, the Regional ROW Chief signs certifying:

- the number of parcels and temporary construction easements and permits (indicated separately);
- that all individuals and families have been relocated to decent, safe, and sanitary housing, or adequate replacement housing in accordance with the provisions of the current FHWA directives has been made available to displaced persons; and
- which of the following four types of right-of-way certifications applies:

Cert. 1: All necessary rights-of-way, including control of access rights when pertinent, have been acquired including legal and physical possession or formal condemnation proceedings are underway (indicate the number of parcels in condemnation).

Cert. 2: Although all necessary rights-of-way have not been fully acquired, the right to occupy and to use all rights-of-way required for the proper execution of the projects has been acquired (indicate the number of parcels with right of entry only).

Cert. 3: The acquisition and right of entry of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with [49 CFR 24.204](#). This is a conditional certification (indicate date of approval for Public Interest Finding (PIF)). See Sec. 2.7.1 and 2.7.2. This level of certification requires a two-step approval process and [23 CFR 635.309\(c\)\(3\)](#) provides two options:

- 1) ATP may be granted for advertising the project before all rights are acquired, on the condition that all the remaining parcels and/or rights of entry will be acquired before the start of construction (see [23 CFR 635.309\(c\)\(3\)\(i\)](#)); or
- 2) under certain conditions, authority to proceed to construction may be granted for the project without all acquisitions complete (see [23 CFR 635.309\(c\)\(3\)\(ii\)](#)) to allow the

contractor to perform temporary work around the parcels. This option is rarely used as it is critical to carefully consider the risks of construction delays, which could potentially give rise to a contractor's claim for damages.

To advance a Cert. 3 conditional certification under either option above, see [23 CFR 635.309\(c\)](#) and the Stewardship & Oversight Agreement to determine if FHWA approval is needed.

- See [23 CFR 635.309\(c\)\(3\)](#) and Sec. 2.7.1 for the required analysis and documentation for conditional certification.
- When a PIF is required, follow [Policy & Procedure 10.02.013](#) and the other requirements for a PIF in this section.
- Include with the Project Certification form FHWA approval for conditional certification and a list of parcels that have not been cleared. Provide a date of when they are expected to be cleared and substantiation that such date is realistic.

Cert. 4: Construction will be contained within the existing right-of-way, including temporary or conditional acquisitions.

For conditionally-certified projects, prior to issuing to the contractor a notice to proceed to construction, provide an updated notification to the Construction Section and FHWA that either all parcels have been cleared or a depiction of all locations where right of occupancy and use has not yet been obtained. For the latter, include a realistic date when physical occupancy and use is anticipated for the remaining parcels. See [23 CFR 635.309\(c\)\(3\)\(iv\)](#).

2.7.1. Public Interest Finding (PIF) for Conditional Certification

A PIF is required when FHWA approval is required to advance the project ahead of ROW clearance. Include the following information with the PIF and request for approval:

1. Identify and describe the project, including whether the project is on the NHS and which agency has approval authority. See Stewardship & Oversight Agreement.

2. State the purpose of the PIF and cite applicable regulations for the type of project certification sought:
 - a. ATA under [23 CFR 635.309\(c\)\(3\)\(i\)](#); or
 - b. approval for physical construction under a contract or through force account work [23 CFR 635.309\(c\)\(3\)\(ii\)](#).
3. Provide adequate narrative to cover the following:
 - a. written justification for why it is in the public interest for the project to advance to the next step prior to having all parcels/land use rights acquired;
 - b. a list of parcels/land use rights not yet fully acquired, including status, remaining issues, and estimated dates of possession for each;
 - c. a discussion of risks and alternatives if the excepted land use rights cannot be authorized by the anticipated date to avoid construction delays/changes to the construction contract (change orders) due to remaining ROW acquisitions;
 - d. a ROW plan indicating which parcels are being certified as clear, which parcels are currently excluded from certification, and the restricted limits of construction; and
 - e. any other relevant information necessary to show benefit to the public.

2.7.2. Documents for the Project Manager

At the time of ROW certification, the ROW agent must transmit copies of the following to the DOT&PF Project Manager:

- [Form 25A-R605 Memorandum of Agreement \(MOA\)](#) for each parcel successfully negotiated;
- Pg. 1 of [Form 25A-R685 Record of Contact](#) providing names and contact information for the acquisition of interest. Any materials source agreements negotiated by ROW;
- any other instrument providing permanent or temporary interest in a property;
- any "Other Conditions" noted on the MOA or any material source agreement negotiated by ROW specific to the project will be included in the contract; and
- a copy of conditional certification approval with PIF if conditional certification is used.

A meeting is recommended between the Project Engineer and ROW staff *before* the construction

project begins. Use this meeting to inform the Project Engineer of any arrangements made and any pertinent information helpful to the Project Engineer.

When it is not feasible to clear all encroachments ahead of construction on a Federal-aid project, the location of the any encroachment(s) not yet cleared shall be noted on the ROW certification. Construction plans and/or specification will note the location and the planned method of resolution for any encroachments that affect construction. Three common methods to resolve encroachments are removing, permitting, or vacating. All encroachments must be resolved prior to the close out of the project as required by [23 CFR 1.23\(b\)](#).

2.8. Periodic Reports

The Regional ROW Chief prepares the following reports annually:

- [Title VI Activity Report \(For Purposes of Compliance with the Civil Rights Act of 1964\) Form 25A-R210](#) (submit to the Statewide Civil Rights Office);
- State Fiscal Year Internal Annual Land and Right-of-Way Relinquishments Report (submit to the Statewide ROW Chief for consolidation and forwarding to the Finance DOT&PF Fix Assets Group);
- a list of any training Regions made available to ROW staff during the preceding calendar year (submit to the Statewide ROW Chief); and
- Consolidated Annual Statistical Report ([49 CFR Part 24 Appendix B](#)) (submit to the Statewide ROW Chief for consolidation and forwarding to FHWA).

Annually after October 1, the FHWA Alaska Division Office will call for the Consolidated Annual Statistical Report covering the Federal fiscal year (October 1 of the prior calendar year through September 30 of the current year) and provide a method and deadline for submission.

2.9. Pre-Audit Procedures

The ROW Pre-Audit Unit handles many of the administrative functions of the ROW Section, such as:

- tracking all funding and expenses;
- preparing Parcel Review Reports;

- coordinating with DOT&PF's Finance Section to encumber funds for projects;
- processing payments;
- coding expenses to the proper ledger account;
- monitoring each project to ensure proper completion of conveyance documents and proper documentation of eminent domain proceedings; and
- preparing project closeout documentation.

2.9.1. Current Cost Estimate

The project agreement between DOT&PF and FHWA must be supported by a [Cost Estimate Form 25A-R220](#). The cost estimate is a summary of the anticipated cost for each ROW Section.

FHWA will not participate in moneys expended over the programmed amount of the cost estimate.

Submit a current cost estimate when requesting ATP for appraisal and acquisition and explain any request for a modification to the project agreement. The cost estimate includes the entire cost of the ROW activities for the project, including work performed by authorized review appraisers and the Department of Law.

During the development of an aviation project, there is no Federal agreement until the project enters the construction stage. See Ch. 10 for FAA Requirements.

2.9.2. Acquisition: Guidelines for Parcel Review Report

The ROW Pre-Audit Unit must prepare a [Parcel Review Report Form 25A-R230](#) for each ROW parcel for which payment exceeds \$500. The guidelines on page 2 of the form explain the actions to be taken by the reviewer.

The Parcel Review Report provides documentary evidence of the review, verification of work performance, and the basis for segregation of participation and nonparticipation costs. The Parcel Review Report supplements the review steps being performed by various ROW Section personnel and becomes a part of the individual parcel file.

2.9.3. Relocation: Guidelines for Relocation Parcel Review Report

The ROW agent submits for payment each relocation payment claim to the Pre-Audit Unit, who will fill out

a [Relocation Parcel Review Report Form 25A-R240](#) as set out in Ch. 7. The ROW Pre-Audit Unit reviews documentation, distributes costs, and signs as reviewer. This form helps determine coding of the distributed costs and provides a review of the work accomplished on the parcel.

2.9.4. Funding, Encumbrance Processing, and Payment

The funding process is as follows:

1. ROW receives a notice of request from the design Project Manager for an estimate and a PDA for ROW incidental costs in Phase 2 and/or Phase 3 funding. See Ch. 1 for a description of project phases.
2. ROW prepares a Cost Estimate and submits them to the design Project Manager.

Encumbrance Processing

The ROW Pre-Audit Unit encumbers funds for requests from the ROW agent. Some items for which Pre-Audit would encumber funds may include:

- approved professional services contracts;
- stock requests;
- just compensation; and
- anticipated obligations for legal fees and relocation claims (derived from the cost estimate).

Pre-Audit also determines whether funding in Integrated Resource Information System (IRIS) is sufficient and requests that Finance encumber funds. If it is not, Pre-Audit refers to the funding process procedures.

Pre-Audit receives notice from Finance that funds are encumbered.

Payments

The Pre-Audit Unit receives, from ROW or Administrative staff, a request for payment on a contract, acquisition, condemnation, relocation, invoice or financial obligation. The Pre-Audit Unit evaluates the request for compliance, requests additional information, if necessary, then processes the request for payment. Upon receipt of the warrant, follows through with appropriate action for disbursement.

2.9.5. Federal-Aid Eligibility

Participating Costs

Federal participation (Federal reimbursement) is allowed in the cost of real property incorporated into the final project if those costs are incurred in conformance with State law and the project is included in the STIP with an executed project agreement.

Participating costs are detailed in [23 CFR 710.203](#).

Nonparticipating Costs

The Pre-Audit Unit staff must code transactions that are ineligible for participation (not eligible for Federal reimbursement) to a nonparticipating code.

Ineligible expenses include, but are not limited to:

- acquisition costs incurred before authorization;
- unsupported acquisition costs in excess of market value that are not supported, examples include:
 - administrative settlement or mediated settlement approved as per delegation of authority, made before condemnation justifying the settlement as prescribed in Ch. 6;
 - [Pre-Trial Settlement Report and Recommendation Form 25A-R805](#) signed and approved by all parties and approved as per delegation of authority; or
 - trial report, signed by DOT&PF's attorney, and concurred by the Department of Law's Chief, Transportation Section and approved as per delegation of authority;
- costs of any acquisition and related incidental costs of \$15,000 or more where the value was established by the same person who made or directed the acquisition ([49 CFR 24.102\(n\)\(4\)](#));
- cost of any acquisition and related incidental costs not supported by appraisal or waiver valuation as required by Ch. 4;
- administrative expenses of the ROW Section including salaries, travel, office expenses, etc., normally classified as overhead costs;
- cost of appraisals that are not in accordance with Ch. 4; and

- mortgage interest cost differentials for mortgages aged less than 180 days (for the difference between State-eligible expenses under AS 34.60 and Federally-eligible expenses limited in [42 USC 61 Section 4623\(a\)\(1\)\(B\)](#), see also Ch. 7).

Credits

To be eligible for a Federal-aid credit, property donated by a local government or private party must have been acquired for transportation purposes in accordance with the Uniform Act.

The credit for advance or early acquisitions is limited to the market value. Acquisition expenses may not be included in the credit.

Credits are considered a project cost and applied to the total cost of the project before calculating the Federal/State share.

Credits for Donations

Donations of real property (Ch. 6) may be credited to the State's matching share of the project. The property may be donated in exchange for construction features or services. The credit or exchange must be based on market value of the property on the earlier of the date of the donation or the date title is recorded to the State.

Donations from local governments or other State agencies may also be used as a credit toward the State's matching share of project costs. To receive credit, the donating agency must prepare a certification stating that the property was lawfully obtained in accordance with the provisions of the Uniform Act, was not parkland subject to [23 USC 138](#) or subject to Historic Preservation procedures under [16 USC 470](#), and that acceptance of the donation did not influence the environmental assessment for the project.

Credits Related to Corridor Preservation

The allowable credit for acquisition costs incurred for property acquired for corridor preservation as described in Sec. 2.3.4 is the original cost DOT&PF paid for the property. If there has been a significant lapse in time since the property was acquired, or if it can be demonstrated by appraisal evidence that market conditions changed (unrelated to the project) since the property was acquired, it may be reappraised and the current market value may be used.

2.9.6. Condemnation Documentation

The following is a list of typical documentation in court cases. Copies of this documentation should be filed in the condemnation file.

- Complaint: (indicating court filing date and the date recorded in the recording district where the land is being acquired);
- Declaration of Taking: (indicating court filing date and the date recorded in the recording district where the land is being acquired);
- Order of Possession and Entry: (indicating court filing date);
- Masters' Report: (indicating court filing date) and a written statement from the Department of Law as to whether the Masters' Award was appealed and, if appealed, by whom;
- Negotiated Settlement: (Occurs before the matter is filed in court) and justification letter from the Department of Law, stating reasons for settlement and separating defendant's attorney fees and other nonparticipating items. The documentation for settlements in excess of the amount stated in Right-of-Way Chief's Determination of Just Compensation ([Form 25A-R505](#)) must include a completed and signed [Pre-Trial Settlement Report and Recommendation Form 25A-R805](#);
- Stipulated Settlement: (indicating court filing date) and a justification letter from the Department of Law stating reasons for settlement and separating defendant's attorney fees and court costs. The documentation for settlements in excess of DOT&PF's current court deposit and/or appraisal shall include a completed and signed [Pre-Trial Settlement Report and Recommendation Form 25A-R805](#);
- Awards:
 - case caption;
 - Right-of-Way Chief's Determination of Just Compensation ([Form 25A-R505](#)) and date with [Waiver Valuation Form 25A-R420](#) or Review Appraiser's recommended appraisal;
 - date, place, and length of trial;
 - brief report of the trial, including range of value testimony by the parties;

- statement of the major issues involved and the development thereof; a description of the major differences, if any, in approaches to value among DOT&PF's witnesses and those of the landowner;
- explanation of any substantial variance between the Right-of-Way Chief's Determination of Just Compensation ([Form 25A-R505](#)) and DOT&PF's testimony given at a higher amount, where relevant;
- comments on possible legal error in the record and explanation of the court's rulings;
- recommendations of DOT&PF's attorney regarding motions for new trial and/or appeal and reasons therefore;
- signed statement of DOT&PF's attorney stating concurrence in the reasoning and disposition of the case; and
- signed statement by the Regional Preconstruction Engineer (or designee) approving or concurring in the action of DOT&PF's attorney in not moving for a new trial or in not prosecuting an appeal;
- Final Judgment: Filed in court and recorded in the recording district where the land is being acquired.

See Ch. 8 for a more detailed discussion of the condemnation process.

2.9.7. Revenue Receipt Coding

Revenue Receipt Coding Federal regulations allow states to retain income generated from the sale or lease of excess ROW if the income is used for Title 23 eligible projects. Only sale or lease revenues received after the FHWA date of final acceptance are eligible for retention by DOT&PF. Payments received must be credited back to the Federal-aid project from which the income was generated while the project remains open, using unrestricted revenue coding.

After a project is closed, restricted revenue codes apply to receipts for which all or part of the revenue must be collected under the Alaska Right-of-Way Manual Sec. 2.9 Pre-Audit Procedures [December 2015 Program Receipts OMB Fund Code 1108-Statutory Designated Program Receipts ([AS 37.05.146](#) (b)(3))]. The Statutory Designated

Program Receipts are considered Receive and Expend Accounts for property management responsibilities.

Each region has established a Property Management Receive and Expend Account for Federal sale or lease revenues received after the FHWA fiscal close out of a project.

In accordance with [23 CFR](#) only expenses for highway-related activities may be funded by these revenues.

Revenues that exceed expenditures at the end of each fiscal year carry forward to the succeeding fiscal year. Coordinate with Regional Pre-Audit Unit staff to ensure accurate coding of Federal vs. State receipts and to confirm these revenues directly benefit Title 23-eligible activities.

Income derived from rental/lease agreements, encroachment permits, and the sale of excess land is covered in Ch. 9.

Loan repayment receipts on last resort housing loans are covered in Ch. 7.

2.9.8. Project Closure

Monitor each ROW project to completion and accomplish closure as soon as possible.

Before the ROW phase of a project is closed, confirm the following:

- conveyance documents have been filed within the recording district where each parcel of land was acquired;
- Final Judgments or Orders of Dismissal received for all parcels acquired through eminent domain proceedings. The Final Judgments and Orders of Dismissal is also recorded in the recording district where each parcel of land was acquired or dismissed;
- ROW plans have been recorded by the ROW Engineering Section; and
- all ROW Section supervisors have concurred in closure ([OK to Close ROW Phase 3, Form 25A-R250](#)).

2.10. Attorney General's Office Review

See Ch. 8.

XXXXX REGION PDA REVISION REQUEST

TO:	Project Control Chief	DATE:			
THRU:		PROJECT NUMBER:	TBD	IRIS	Federal
FROM:	Project Manager	PROJECT NAME:			

PHASE	Current Funding PDA#	OR	Funding Change	Revised Amount
Phase 2 - Design		\$0.00	\$0.00	\$0.00
Phase 3 - Right of Way		\$0.00	\$0.00	\$0.00
Phase 4 - Construction		\$0.00	\$0.00	\$0.00
Phase 7 - Utilities		\$0.00	\$0.00	\$0.00
Phase 9 - Other				\$0.00
Total Participating		\$0.00	\$0.00	\$0.00

NON-PARTICIPATING				
Phase 2 - Design		\$0.00	\$0.00	\$0.00
Phase 3 - Right of Way		\$0.00	\$0.00	\$0.00
Phase 4 - Construction		\$0.00	\$0.00	\$0.00
Phase 7 - Utilities		\$0.00	\$0.00	\$0.00
Phase 9 - Other		\$0.00	\$0.00	\$0.00
Total Non-Participating		\$0.00	\$0.00	\$0.00

SUBTOTAL:	\$0.00	\$0.00	\$0.00
UNALLOCATED			
Phase 1 State	\$0.00	\$0.00	\$0.00
Phase 1 Federal	\$0.00	\$0.00	\$0.00
TOTAL:	\$0.00	\$0.00	\$0.00

ACTION REQUESTED:
FHWA ATP thru: Construction

Action Requested Narrative:

Do you want to include this language? "Request approval to use preliminary engineering funding for acquiring temporary property interests, if needed, in accordance with Section 2.2 of the ADOT&PF ROW manual."

[X] YES [] NO

SCOPE: (only required on original or if revised)
Scope Narrative for Non FHWA:

PROJECT CONTROL USE ONLY				FHWA Need ID:		Capitalized (C) or Expensed (E)	
Appn #	Appn #	STIP / TIP	Phase	Phase	Ratio:		
Available	Requested						
RP in Process	Contingency Memo						
Local Match							

☐ Construction Budget Form
☐ FHWA Offset Form
☐ Executed AIP Grant

(Rev 12/2018)

**Exhibit 2-1
Example PDA and Obligation Plan (STIP) Revision**

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