Persons with disabilities may request this information be prepared and supplied in alternate formats by calling the Washington State Department of Transportation ADA Accommodation Hotline collect 206-389-2839. Persons with hearing impairments may access Washington State Telecommunications Relay Service at 1-800-833-6388, and connecting to 206-515-3683.

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FOREWORD

This Right of Way Manual constitutes a statement and description of the Right-of-Way organization, and the procedures and practices that the Department of Highways will follow where right of way is acquired for State and/or Federal-aid highway projects. Due to the widely varied circumstances which can be encountered, no statement of procedures can be all encompassing. However, when combined with good administrative judgment, the methods and procedures established by this Manual can serve as the basis for all right of way practices. Adherence to the regulations promulgated in this Manual is expected. In rare cases, a deviation may be accepted on a case basis provided the Assistant Director for Highway Development receives adequate notice of a proposal to deviate and approves such deviation in advance.

This Manual directs that statewide Right of Way operations conform with current State and Federal regulations and the desires of the Director of Highways in accordance with the guidelines and criteria established under the responsibility of the Assistant Director for Highway Development.

Federal regulations, authorizations or other approvals may be ignored or otherwise bypassed upon authorization by the Assistant Director for Highway Development when such action is not contrary to State or local regulations. Procedures are identified in this Manual in which the Department may exercise an option based on whether Federal participation is desired. As directed by the Assistant Director for Highway Development, the Chief Right of Way Agent takes appropriate action, to obtain FHWA approval or concurrence if participation of Federal funds is desired in any part of either: (a) the total costs of the project, or (b) the right of way costs of the project.

This Manual was prepared and will be maintained by the office of the Chief Right of Way Agent. Recommendations for improvements in this Manual are encouraged and may be directed to the Chief Right of Way Agent.

W. M. Foster,
Assistant Director for Highway Development
INTRODUCTION

This Right of Way Manual, M 26-01 (HW), is so vastly different from its predecessor, the Right of Way Agent's Manual, that some explanation of its scope and use seems appropriate. Whereas the Right of Way Agent's Manual was really just that - the present manual is designed for guidance of all Right of Way personnel from the Agent Trainee up through the District R/W Supervisor and the Chief Right of Way Agent. In addition the new manual addresses in large measure the interrelationships of the Right of Way function with other Departmental disciplines. However, its main thrust is still aimed at the working Right of Way Agent and it is meant to be his guide and Bible.

NUMBERING. The new manual is divided into twelve definitive chapters plus an index, a section in which to record changes and a section for forms illustration. The adopted numbering system consists of a chapter number followed by a dash which in turn is followed by a section number. The sections are indicated by a decimal reference after the section number. The subdivision numbering system is indicated by a number in the first position following the decimal, with further subdivisions occupying decimal positions to the right of that. Since terminal zeros have not been used, they sometimes have to be imagined in order to properly picture the sequence. For example, the reference 1-2.34 (Chapter 1, Section 2, Subsection 3, Sub-subsection 4) comes after a reference like 1-2.155, for the 1-2.34 is really the 1-2.340. Further subdivision is by the usual alternating alpha-numeric systems used in an outline.

Where there are more than ten (10) principal subdivisions of a section, a zero is inserted immediately to the right of the decimal point in order to permit up to 99 subdivisions, e.g., Section 8-4.01 is the first subdivision of 8-4 as there are some 14 subdivisions of that section of Chapter 8.

Illustrative figures are identified by the word "Figure" and the section number (down to the last alpha-numeric subdivision) in which they are first referred to. For example, "Figure 6-4.622B2" is first referred to in Section 6-4.622B2.

Each page of the Manual is identified in the upper outside corner, i.e., away from the loose leaf binding rings. The identification is of the section number of the text or figure first appearing at the top of the page, even though such section or figure commences on a prior page. Some long sections have to be further identified by page numbers following the section number, e.g., 1-2.34, p.2 is the second page beginning with text making up Section 1-2.34. The final alpha-numeric subdivision numbers are not used in page numbering.

BLANK PAGES AND ERRORS. When the reverse side of a page is not used, the phrase "INTENTIONALLY LEFT BLANK" is printed on it so the user will know that nothing is missing. Blank pages, if found, should be reported to the Administrative Services Section Supervisor. Any errors discovered should likewise be reported to the Administrative Services Section Supervisor.

CHANGES. Changes are issued as necessary to reflect modification of Federal regulations, Departmental policy, procedure or organization or to correct errors. Reprints of entire chapters or sections are issued as changes if 40% or more of the pages are affected. Otherwise, individual replacement pages are issued. In either case, insertion directions are indicated on the reverse of the Publications Transmittal (HW Form 761-003) which forms the cover sheet for each published change. Within each revised sheet every effort is made to show the change by a vertical line in the left margin spanning the revised material. However, mere corrections in spelling and the like are not so indicated. If no change appears on one side of a revised page, the change number, which will appear in the lower outside corner, will be followed by a note referring to the reverse side or marked "reprinted only" as may be appropriate. Changes requiring immediate action are issued as "Interim
Instructions" or "Instructional Letters." Either has the same effect as a Manual change and will be republished as such in due course.

REFERENCES. The most common reference materials are all listed in Section 1-3. When necessary, the text will recite the Section 1-3 listing in order to eliminate the duplication of long titles and to permit a change in the reference listed without having to make a change in every page of text where the reference is cited.

When cross-references appear in the text, they refer to all material in the quoted section, e.g., a reference to Chapter 6 refers to all of same; a reference to Sect. 6-2 refers to all of Sect. 2 of Chapter 6; and a reference to Sect. 6-3.33 refers to all of subsection .33 of Section 3 of Chapter 6.

INDEX. An index is provided at the end of the manual to assist in finding material by subject. Not every possible subject is listed, only the most important. Use of alternate entry nouns to find the subject in question will usually suffice. The index alphabetizes the subject of every "Table of Contents" entry (except some "general" sections), all principal nouns and a considerable number of "buried" subjects (nouns). Many are listed under more than one heading in an effort to reflect the approach of the men in the field who isn't sure of the specific subject.

Serious study and familiarity with the Right of Way Manual is urged upon all. The quantity of policy and procedural changes since the days of the Right of Way Agents Manual makes memory a poor substitute.

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CHAPTER 1
ADMINISTRATION AND OPERATION

SECTION 1-1
PURPOSE

A. This Right of Way Manual, M 26-01 (HW), describes the Washington State Department of Highways' Right of Way organization and the practices and procedures it follows in acquiring right of way for highway projects. The Manual is for internal use, and its use assists affected Department of Highways' employees in complying with the State and Federal laws, regulations, standards and directives concerning right of way matters.

B. In general, this Manual answers the following questions:

1. What is to be done? - the "Rules" section.
2. How is it to be done? - the "Procedures" section.
3. Who is to do it? - the "Procedures" section.
4. Why is it to be done? - the "General" section.
The following are superseded by the publication of this Manual:

A. D 26-01 (HW), Right of Way Agent's Manual (and all changes thereto).

B. IL 26-01.02 (HW), Sales of Real Property Excess to Department of Highways Needs.

C. IL 22-52.01 (HR), Relocation Assistance Statement at Public Hearings.

D. IL 26-01.04 (HW), Rules for Administrative or Stipulated Settlements, Right of Way Acquisition Program.

E. IL 26-01.05 (HW), Airspace Agreements Standards and Procedures.

F. D 26-10 (HW), True Cost Estimates and Reports of Right of Way Costs.

G. D 26-12 (HW), Payment for Appraisals and Related Services.

H. D 26-40.1 (HW), Criteria for Authorization of Advance Purchase of Right of Way (State and Federal Aid Programs).

I. D 26-42 (HW), Processing FHWA Citations of Right of Way Practices.

J. D 26-46 (HW), Additional Acquisitions.

K. All prior correspondence relating to procedural matters.
SECTION 1-3
REFERENCES

1-3.1 DEPARTMENTAL PUBLICATIONS

All current Departmental publications may be used in consonance with this Manual; however, the following may be the most commonly used:

A. D 00-00 (SO), Department Publications System Table of Contents.
B. M 22-01 (HE), Highway Design Manual.
C. M 26-05 (HW), Right of Way Control System Manual.
E. D 26-40 (HW), Advance Purchase of Right of Way Property (State and Federal Aid Programs).
F. D 31-12 (FP), Interdisciplinary Approach to Project Development.
G. D 27-02 (HE), Projects of $25,000 or Less.
H. M 12-51 (SP), Programming and Funding Highway Projects
I. D 22-32 (HR), Approval of Land Plat Plans (Acquisition of State Lands).
J. D 22-40 (HR), Approval of Right of Way Plans (Access Controlled).
K. D 22-42 (HR), Approval of Right of Way Plans (Acquisition of Federal Lands).
L. D 22-44 (HR), Approval of Right of Way Plans (Non-Access Controlled).
M. D 16-34 (SS), Authority to Perform Work and Fund Authorization (Programmed Items - Non-Highway Contract) Unanticipated or Special Situations.
N. D 22-50 (HR), Memorandum of Understanding, "Highways Over National Forest Lands".
O. D 22-53 (HR), Selection, Approval and Reclamation of Sundry Sites.
P. M 22-86 (HR), Utilities on Highway Rights of Way.
Q. D 22-88 (HR), Execution of Railroad Agreements.
R. D 22-90 (HR), Execution of Utility Relocation Agreements.
S. D 75-12 (AS), Accident Review Boards
T. D 72-55 (AD), Use of State Cars.
U. D 72-50 (AM), Travel and Per Diem.
V. M 73-01 (AP), Personnel Job Specifications.
X. D 73-26 (AP), Conflict of Interest and Employment.
Y. D 01-07 (AM), Signature of Extraddepartmental Correspondence.
AA. D 74-02 (AI), Employee Skill-Related Training Program.
AB. D 72-35 (AD), Records Control of Correspondence.

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AC. M 16-10 (SS), Washington Automated Control System (WAX).
AD. D 22-52 (HR), Public Hearings.
AE. D 22-52.1 (HR), Public Hearing Procedures.
AF. D 22-19 (HR), Joint Development and Multiple Use of Highway Right of Way.
AG. D 22-19.1 (HR), Multiple Use of Highway Right of Way.
AH. M 36-65 (PA), Federal-Aid Off System Rural Roads (FOR) Manual
AJ. D 01-01 (SO), Subdelegation of Authority.
AK. M 21-01 (HD), Standard Plans for Road and Bridge Construction.
AL. M 13-30 (SC), Chart of Accounts.
AM. D 16-32 (SS), Authority to Perform Work and Fund Authorization for Capital Improvement Projects.
AN. D 72-15 (SO), Departmental Publications System
AO. M 11-01 (SR), Manpower Management Information System
AP. M 07-02 (AM), Organization Manual.
AQ. D 13-33 (SC), Identification of Federal Aid Participating and Non-Participating Charges.
AR. M 73-60 (AP), Compensation Plan.
AS. D 33-30 (PP), Environmental Quality.
AT. D 26-60 (HW), Repairs to or Demolition of Department owned Real Property.
AU. D 73-02 (AP), Delegation of Appointing Authority.
AW. D 26-16 (HW), Acquisition of Right of Way and Relocation Assistance on Local Agency Federal-Aid (FAM and FOR) Projects
AX. D 36-66 (PA), Federal-Aid Off System (FOR) Program
AY. D 72-32 (AM), Staff Paper Summar Sheets

NOTE: "Instructional Letters" (IL's) on these and other subjects are also of potential influence. IL's are not listed here because they have a temporary life (9 months), after which time either they are incorporated into another publication or they are no longer effective.

1-3.2 OTHER STATE PUBLICATIONS

The following publications relate to the right of way effort:

1-3.2.1 CONSTITUTIONAL PROVISIONS

A. Article II, Section 28 Special Legislation.
B. Article XII, Section 10 Corporations, Eminent Domain Affecting.

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C. Amendment 9 Eminent Domain (amends Article I, Section 16).
D. Amendment 18 Highway Funds (amends Article II, Section 40).

1-3.22 STATUTORY PROVISIONS
A. RCW 4.92.060 et seq. Actions against state officers.
B. Chapter 8.04 RCW Eminent domain by state.
C. Chapter 8.25 RCW Additional provisions applicable to eminent domain proceedings.
D. Chapter 8.26 RCW Relocation assistance -- Real property acquisition policy.
E. RCW 41.06.250 et seq. Political activity.
F. Chapter 42.22 RCW Code of ethics for public officers and employees.
G. Chapter 47 RCW Public highways.
H. RCW 65.08.095 Conveyance of fee title by public bodies.
I. RCW 79.01.340 Right of way for roads and streets over, or for county wharves upon, public lands.
J. RCW 84.60.050 Acquisition by governmental unit of property subject to tax lien -- Effect.
K. RCW 84.60.060 Relative Amount payable when tax not delinquent -- Withholding amount from condemnation award.
L. RCW 84.60.070 Segregation of taxes if only part of parcel acquired.
M. RCW 87.03.810 Lump sum payment to district for irrigable lands acquired for highway purposes.
N. RCW 87.03.815 Order relieving further district assessments.
O. Chapter 59.16 RCW Residential landlord-tenant act.
Q. RCW 42.17.190 Legislative activities of state agencies and other units of government.
R. Chapter 39.29 RCW Personal service contracts.
S. Chapter 90.58 RCW Shoreline management act of 1971.
T. RCW 82.29.030 Leasehold in lieu excise tax -- Tax imposed -- Rate -- Exemptions.
U. RCW 4.24.300 Persons rendering emergency care or transportation -- Immunity from liability.
REFERENCES

1-3.23 ADMINISTRATIVE CODE PROVISIONS

A. WAC 252-12-010 Policy and procedure for handling assessments against state highway lands.

B. WAC 252-12-040 Policy relative to granting and maintaining road approaches to state highway system.

C. WAC 252-12-050 Rental of state highway lands and improvements.

D. WAC 252-12-055 Procedure for transfer of abandoned state highways to counties.

E. WAC 252-12-060 Policy and procedure for sale of personality.

F. WAC 252-12-070 Designation of official custodian of right of way maps.

G. WAC 252-20-040 Use of space beneath structures on limited access highways.

H. Chapter 365-24 WAC Uniform relocation assistance and real property acquisition.

I. Chapter 252-40 WAC Highway advertising control act.

1-3.24 OTHER STATE AGENCIES

A. Merit System Rules, Department of Personnel.

B. Rules and Regulations for Uniform Relocation Assistance and Real Property Acquisition Policies Act, Office of Community Development.

1-3.3 FEDERAL REGULATIONS

A. Federal-Aid Highway Program Manual (FHPM), Volume 7 "Right of Way and Environment."

Note: Supersedes the PPM 80-series publications.

B. Federal-Aid Highway Program Manual (FHPM), Volume 6, Chapter 4, Section 2, Subsection 1, "Physical Construction Authorization."

Note: Supersedes PPM 21-12.

C. Federal-Aid Highway Program Manual (FHPM), Volume 6, Chapter 4, Section 2, Subsection 5, "Plans and Specifications for Federal-Aid Projects" (Standards for Preparation).

Note: Supersedes PPM 40-3.1, 40-3.2 and 40-3.2(2).
SECTION 1-4
PERSONAL CONDUCT

No question about ethical conduct arises when an employee performs his duties fairly, honestly, impartially and in such a manner as to bring no discredit to himself, the Department or his fellow employees.

1-4.1 CODE OF ETHICS

The following Code of Ethics was developed by the American Right of Way Association and is adopted by the Department. All R/W employees are expected to conduct themselves in compliance with this code.

recognizing the responsibility of our profession to the people and business of our country, and believing that we should encourage and roster high ethical standards in our profession, we do hereby adopt the following CODE OF ETHICS for our constant guidance and inspiration, predicated upon the basic principles of truth, justice and fair play:

1. To show faith in the worthiness of our profession by industry, honesty and courtesy, in order to merit a reputation for high quality of service and fair dealing.

2. To add to the knowledge of our profession by constant study and to share the lessons of our experience with our fellow members.

3. To build an ever-increasing confidence and good will with the public and our employer by poise, self-restraint and constructive cooperation.

4. To ascertain and weigh all of the facts relative to real properties in making an appraisal thereof, using the best and the most approved methods of determining the just and fair market value.

5. To conduct ourselves in the most ethical and competent manner when testifying as an expert witness in Court as to the market value of real properties, thus meriting confidence in our knowledge and integrity.

6. To accept our full share of responsibility in constructive public service to community, state and nation.

7. To strive to attain and to express a sincerity of character that shall enrich our human contacts, ever aiming toward that ideal -- "The Practice of the Golden Rule."

1-4.2 CONDITIONS OF EMPLOYMENT AND ETHICAL BEHAVIOR

A. Certain aspects of ethical behavior and conditions of employment have taken the form of legislation while others are a matter of Department regulation. All are in the form of prohibitions, violations of which may result in a reprimand, work without pay, demotion, dismissal from employment or criminal charges being filed depending upon the circumstances and the seriousness of the violation.

B. While not all inclusive, the following are conditions of employment and ethical practices falling within the area of regulation indicated by the Merit System Rules (Ref: Sec. 1-3.24A) and to which the Department expects strict adherence:

1. Employees report any attempted bribery or suspected bribery attempts regardless of degree of amount to their immediate supervisor. An employee may not request, accept or receive any gift, favor, service, loan or entertainment which might reasonably be interpreted as tending to influence him in the performance of his official duties. Differentiation between the exchange of social amenities and the acceptance of gifts or favors which may reasonably be interpreted as placing the recipient in a position of obligation is a matter of judgment. Decisions regarding
PERSONAL CONDUCT

Propriety in such matters rest with the individual and he is held personally responsible for errors in judgment.

4. No employee may act in any fashion as intermediary between a property owner and another employee in matters pertaining to right of way because of personal acquaintance, friendship or relationship with such owner.

5. An employee does not accept an assignment regarding right of way matters wherein he is personally acquainted with or related to the property owner involved where such acquaintance or relationship might tend to influence or prevent him from acting in an unbiased and professional manner.

6. An employee does not speak in a defamatory manner about another employee. Extreme care is exercised in regard to derogatory statements of fact about personnel in intra-Departmental contacts. Each employee strives to present and preserve a highly professional appearance both of himself, his fellow employees and the Department in all his contacts.

7. Employees do not participate in outside employment which may adversely affect their ability to function in the discharge of official duties.

8. Personal conduct both on and off the job is such that no discredit is brought upon the employee or the Department. Employees are expected to be cheerful, cooperative and considerate of fellow employees and the public, displaying pride in their position and the Department in all their contacts.

9. The Department does not condone the consumption of alcoholic beverages during working hours nor the operation of a motor vehicle while under the influence of alcohol.

10. State-owned vehicles are operated only for the conduct of official State business.

11. All employees are expected to work a full eight hours each day and to be punctual. Most employees' schedules fit into the normal 8:00 a.m. to 5:00 p.m. category. Occasionally an employee may be required to work evenings, weekends, or on holidays. In that case, the employee and his supervisor may make an appropriate adjustment to the employee's work schedule.

1-4.2 GENERAL LEGISLATED PROHIBITIONS

Each employee is prohibited (Ref: Sec. 1-3.22P) from:

A. having any interest, financial or otherwise; engaging in any business or transaction or professional activity; or incurring any obligation of any nature, which is in conflict with the proper discharge of his duties in the public interest.

B. Giving or receiving or agreeing to receive any compensation, gift, reward or gratuity from any source except the State of Washington for any matter connected with or relating to his services as an officer or employee unless otherwise provided by law.

C. within two years of his separation from the Department, appearing before it or receiving compensation for any service rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which he was directly concerned and in which he personally participated during his Departmental service.

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PERSONAL CONDUCT

D. Accepting any employment or engaging in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position.

E. Disclosing confidential information or otherwise using such information for his personal gain or benefit.

F. Transacting any business in his official capacity with any business entity of which he is an officer, agent, employee or member, or in which he owns an interest.

G. Lobbying (See Section 1-4.42).

1-4.4 POLITICAL ACTIVITY

The political activities of State employees are directly controlled by certain statutes which describe both permitted and prohibited activities.

1-4.41 HATCH ACT

A. Federal law (the Hatch Act) applies to officers and employees of State and local agencies when such agencies receive Federal funds. Department of Highways officers and employees are, therefore, subject to the provisions of the Hatch Act.

B. The Office of the General Counsel, U. S. Civil Service Commission, states that effective January 1, 1975, State and local employees may not:

1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

2. Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

3. Be a candidate for public or political party elective office in a partisan primary, general or special election.

1-4.42 LOBBYING -- LEGISLATIVE ACTIVITIES

The State's Public Disclosure Act imposes certain requirements upon employees of all State agencies as follows:

A. The official spokesmen to the State Legislature for the State Highway Commission and the Department of Highways are the Director of Highways, the Deputy Director, the Executive Assistant to the Director, all Assistant Directors and the District Engineers.

B. Any employee who as an employee has a "legislative activity" files a quarterly report (Ref: Sec. 1-3.22Q).

NOTE: A "legislative activity" is any communication to an individual legislator or to a group of legislators which could be interpreted as an attempt to influence the passage or defeat of legislation. Also included is any communication on legislation directly affecting the Department of Highways (except communications on appropriation requests), when the communication is made at the request of a legislator. "Legislative activities" also include attempts to influence the adoption or rejection of any rule, standard, rate or legislative enactment of any state agency under the State Administrative
PERSONAL CONDUCT

Procedure Acts. Thus, contacts between Department of Highways' employees and the employees or officials of any other state agency (except the State Highway Commission and the Urban Arterial Board) which could be regarded as related to possible changes in the regulations, etc. of the other agency, are to be reported. For these purposes, the Washington Toll Bridge Authority and the Marine Employee Commission are considered as "other agencies."

1. The quarterly report includes the following:
   a. Employee's name.
   b. Classification and job titles (see Figures 2-2.1 and 2-3.1B).
   c. Salary.
   d. Legislator's name.
   e. General description of legislative activity (i.e., nature and subject of the communication).
   f. Percentage of total working hours spent on such activities.

NOTE: The employee itemizes all contacts initiated by a legislator (or his designee); however, the percentage of time spent on legislative activities reflects all contacts regardless of the originator.

2. The quarterly report is submitted by the 15th of the month following the end of each calendar quarter (e.g., April 15th for the 1st quarter, etc.) as follows:
   a. District R/W employees: through channels via the District R/W Supervisor to the District Engineer.
   b. Headquarters R/W employees: through channels via the Chief R/W Agent to the Assistant Director for Highway Development.

C. Nothing in Section 1-4.42 abridges the right of the employee as a private citizen to contact his elected representatives on any matter, provided that:

1. The contacts are made on the employee's own time, and through the use of the employee's own facilities.
2. The employee in no way represents himself as speaking for the Department of Highways or the State Highway Commission.
PERSONAL CONDUCT

1-4.5  SALES TO EMPLOYEES PROHIBITED

No Department of Transportation employee is permitted to purchase either at public auction or otherwise any State-owned real property, improvements, or personality which are under the jurisdiction of the Department of Transportation, except in unusual cases with the specific prior approval of the Secretary of Transportation.

1-4.6  RENDERING EMERGENCY ASSISTANCE

A. The Department encourages its employees to provide emergency assistance to the public if and when the situation arises. Such assistance includes:

1. Aiding stranded motorists.
2. If qualified in First Aid, rendering such assistance at the scene of an accident.
3. Assisting in directing traffic at the scene of an accident under the direction of or until relieved by the Washington State Patrol or other local police officer.
4. Transporting injured persons from the scene of an accident to a hospital or doctor's office.

B. The reference cited in Section 1-3.22U provides that any person who in good faith and without compensation renders emergency care at the scene of an emergency or who transports therefrom any injured persons for medical treatment is immune from civil damages arising out of said actions. However, the person rendering such aid or transportation is liable if his actions or omissions constitute gross negligence or willful or wanton misconduct.
SECTION 1-5
PERSONNEL SELECTION

1-5.1 WASHINGTON STATE CIVIL SERVICE SYSTEM

All R/W personnel are covered by the Washington State Civil Service System which affords them protection similar to that provided by the Federal Civil Service System (Ref: Sec. 1-3.24A).

1-5.2 CLASSIFICATION TITLES

Job descriptions for the following classification titles are given in the reference cited in Section 1-3.14:

- Right of Way Agent Trainee
- Right of Way Agent I
- Right of Way Agent II
- Right of Way Agent III
- Right of Way Agent IV
- Right of Way Agent V
- Right of Way Agent VI
- Right of Way Agent VII
- Chief Right of Way Agent

1-5.3 FUNCTION TITLES

A. The function title describes a particular specialty within a classification title. For example: a person holding the classification title of Right of Way Agent II might be assigned any of the following function titles:

- Staff Appraiser
- Review Appraiser
- Acquisition Agent
- Title Examiner
- Condemnation Examiner
- Property Management Agent
- Relocation Assistance Agent

1-5.4 SELECTION AND ASSIGNMENT

A. Rules and procedures for the selection and assignment of personnel to classification titles are given in the reference cited in Section 1-3.24A.

B. In the Districts, the selection and assignment of personnel to a specialty or function is performed by the District Engineer assisted by the District R/W Supervisor. Selection and assignment is based upon the person's qualifications; i.e., his prior training and experience, his apparent abilities to perform the assigned tasks, and his potential for future advancement.

C. In the Headquarters R/W Division, the Chief R/W Agent:

1. Interview individuals for employment registers. (Delegation of appointing Authority memo dated May 28, 1975 and revised June 5, 1975).

   a. Coordinates with and obtains the approval of the Assistant Director for Highway Development in making appointments for Right of Way Division positions involving:

   1) Any and all supervisory positions.

   2) All positions of Right of Way Agent V and above.
PERSONNEL SELECTION

b. Makes appointments for all non-supervisory Right of Way Division positions below the level of Right of Way Agent V, except as provided in D, below.

2. Insures the involvement of Right of Way Division supervisors in "appointing authority" activities as subdelegated in the reference cited in Section 1-3.1AU. (Delegation of Appointing Authority memos dated May 11, 1971 and May 28, 1975).

3. Approves personnel action documents relative to termination of R/W Division employees during their probationary employment period. (Delegation of Appointing Authority memo dated November 14, 1972).

D. The following special procedures are used in the selection and assignment of Review Appraisers:

1. Screening: Candidates are screened by the Chief R/W Agent (or his designee) as follows:
   a. The candidate must have had either:
      1) Three years of satisfactory training and work performance in the Department and has demonstrated the knowledge and ability to appraise less complex rural and urban real property, or
      2) If initially employed in this position; four years of verified active experience in appraisal of both rural and urban real properties and one of the following:
         a) College Degree.
         b) Four years verified active experience in the real estate field leading to a basic knowledge of real property valuation.
         c) Any combination of such experience as last described and college study to provide a total of four years beyond high school graduation and experience of the types named.
   b. The candidate must have demonstrated knowledge of the principles and techniques pertinent to appraising and the ability to independently appraise properties of the types for which he is to review appraisal reports which have been prepared by others.

2. Selection: The Chief R/W Agent reviews and approves the candidate's qualifications. Based on this approval, he appoints Review Appraisers after obtaining the approval of the Assistant Director for Highway Development.

E. The procedures used in the selection of fee appraisers are given in Section 4-7.
1-6.1 GENERAL

The following sections outline the Right of Way training program and recite general rules and procedures for authorizing attendance and participation in training and professional development activities. This training program is conducted and/or managed by or through the Assistant Director for Highway Development. All employees are encouraged to enhance their usefulness to the Department of Highways through the professional evolution that results from frequent and continuing participation in professional development and training activities.

1-6.2 RULES

A. Right of Way employees are encouraged to attend and participate in local chapter meetings of professional societies in their respective fields. Membership in such societies is purely voluntary -- the Department of Highways neither requires such memberships as a condition of employment nor contributes to the cost of such memberships.

B. Right of Way employees may be afforded training opportunities by the Department of Highways to maintain a level of proficiency suitable to the needs of the Department. The Department is not obligated to offer training and does not require it as a condition of, or for continuation of employment.

C. In accordance with the reference cited in Section 1-3.24A, the Department of Highways may offer training opportunities which, in the opinion of the Assistant Director for Highway Development, are potentially capable of increasing employee efficiency, improving job performance, and contributing to the promotional advancement of the participants. The appointing authority selects personnel for training at his discretion by applying the following criteria:

1. The employee's willingness to receive the training.

2. The employee's potential for realizing the benefits of the training and passing such benefits on to the Department.

D. On-the-job training is the primary means of employee training; however, in-service training from outside sources is obtained whenever:

1. The training source has received professional and/or public recognition and such training is of value to the Department.

2. The training costs and/or availability of instructional capabilities indicate comparatively greater feasibility for such training on a case basis.

E. Attendance in Training Events:

1. Employees (see Section 1-6.2C) may be offered the opportunity to participate in training courses such as those listed in Appendices 1-1 and 1-2.

   a. An employee may be eligible to repeat an in-service training event if recommended by his supervisor.

   b. Courses which are attended by an employee (prior to or during employment period) without Department sponsorship, do not entitle the employee to consideration for Department sponsorship in the same or alternate training courses.

   c. Opportunities offered by the Department for training courses are accepted at the option of the employee. Unless there are extenuating circumstances (death in the family, illness, etc.), an
TRAINING PROGRAM

employee's refusal or rejection of the Department's offering of a
given training course may preclude the employee's future eligibility
for that course.

d. The appointing authority may restrict the period of absence
from normal duties for attendance at in-service professional courses
and limit such absence to an aggregate of two (2) working days per
calendar year, exclusive of travel time.

e. When the appointing authority deems attendance in additional
training events to be appropriate, he may (and is urged to) permit
an employee to be absent from normal duties to attend an in-service
professional course, plus travel time, on an individual case basis.

f. The time limits authorized in a above establish no right of
compensatory time for any unused portion thereof.

2. In accordance with the reference cited in Section 1-3.24A, neither
compensatory time nor overtime is authorized for training hours in excess
of regular working hours because attendance in training events is
voluntary.

3. Attendance in the entire program of a given training event is
compulsory upon the employee who accepts Department sponsorship in such
event. Employees who elect to take training agree to participate fully
in such training and to cooperate with the instructor and course manager.

4. Employees who are performing satisfactorily, but whose training
assignment is not completed because of death, illness, disability, or
department termination of the training assignment are eligible for
reimbursement of expenses in accordance with the reference cited in
Section 1-3.24A. In addition, the employee may be offered an opportunity
to repeat or complete the training assignment.

F. Expenses of Employee:

1. All necessary expenses of attendance and participation in training
cited in Appendixes 1-1 and 1-2 may be eligible for payment or
reimbursement by the Department as specified in the references cited in
Sections 1-3.1U and 1-3.1Z.

2. When eligible, the costs of salary, travel and per diem are
distributed to the work area or program to which the individual is
currently assigned; i.e., the work in which the employee would otherwise
be engaged.

3. The employee's authorization to attend a course indicates approval
of expense categories (or portions thereof) eligible for payment or
reimbursement by the Department as specified in the references cited in
Sections 1-3.1U and 1-3.1Z.

4. Work time reports, travel expense vouchers, and other travel
expenses (e.g., mileage, fares, fees and tolls) are account-coded as
specified in the reference cited in Section 1-3.1AL.

G. Personnel who are unable to accept the conditions specified in Section 1-
6.2 shall notify their supervisors and withdraw their names from consideration
for training.
TRAINING PROGRAM

1-6.3 PROCEDURES

1-6.31 FORMAL R/W TRAINING (COURSES LISTED IN APPENDIX 1-1)

A. The Administrative Services Section Supervisor (or his designee):
   1. Obtains information on scheduled dates and locations for courses.
   2. Evaluates the suitability of courses for Department participation in compliance with the reference cited in Section 1-3.24A, and recommends suitable actions to the Chief Right of Way Agent.

B. The Chief Right of Way Agent (or his designee) reviews the recommendation and, upon concurrence, recommends approval of Department participation to the Assistant Director for Highway Development.

C. The Assistant Director for Highway Development:
   1. Upon concurrence, approves Department participation in scheduled training.
   2. Notifies the Department Training Officer, the District Engineers and the Chief Right of Way Agent of the identification, dates and locations of courses approved for Departmental participation; identifies the related costs and identifies the cost categories eligible for State payment and/or reimbursement; e.g., tuition, salary, travel, per diem, course materials, etc.

D. The District Engineers (or their designees) prepare and submit the following to the Chief R/W Agent:
   1. A list of employees' names (arranged in the order of District-assigned priorities) who desire the respective course, who meet the specifications of Section 1-6.2C, and whom the appointing authority (e.g., District Engineer) authorizes to attend.
   2. Names of any otherwise qualified employees who refuse or reject the opportunity to take any offered course, including the employee's reasons and the District's recommendations on future eligibility as specified in Section 1-6.2Fcc.

E. The Chief R/W Agent:
   1. Prepares lists of Headquarters employees similar to those specified in Section 1-6.3D1 and 2.
   2. Prepares a master roster from the lists of authorized employees and forwards same to the Assistant Director for Highway Development. If selection to the final roster is limited, the number selected from each list may be proportionately reduced.
   3. Requests that the Department Training Officer obtain FHWA approval of participation in costs of salaries, travel and per diem for training, as appropriate.
   4. Prepares and obtains execution of vouchers necessary for payment of Department participation in initial costs; e.g., registration, tuition, course materials, etc., in accordance with Section 1-6.2F.
   5. When feasible, arranges for direct payment for meals and lodging in lieu of individual expense payments to employees.

F. The Assistant Director for Highway Development notifies the District Engineers, the Chief R/W Agent, and the Finance Officer in writing of the names of the selected attendees.
TRAINING PROGRAM

6. District Engineer (or his designee):

1. Notifies authorized employees of necessary actions for attending training and for claiming payment or reimbursement of eligible costs in accordance with Section 1-6.2F and the reference cited in Section 1-3.1U.

2. Obtains from attendees copies of course completion certificates or other appropriate completion documents issued by course managers upon course completion.


4. Submits one copy of each course completion document to the Chief E/W Agent (Administrative Services Section Supervisor).

H. The Chief E/W Agent (or his designee):

1. Takes action as specified in Section 1-6.3G with respect to Headquarters employees.

2. Notifies the Assistant Director for Highway Development of cases in which the course records indicate non-participation by an attendee.

1-6.32 SUPPLEMENTAL TRAINING (COURSES NOT LISTED IN APPENDIX 1-1)

A. All E/W employees:

1. Obtain facts concerning potentially valuable formal and informal training which meets the requirements of the reference cited in Section 1-3.24A.

2. Submit the information, with a brief explanation of the potential training value, to the immediate supervisor.

B. All E/W Supervisors, upon concurrence, submit the information through channels to the Chief E/W Agent.

C. The Chief E/W Agent takes action as specified in Section 1-6.31B.

D. The Assistant Director for Highway Development, if he approves, directs that the proposed unscheduled training be processed as specified in Section 1-6.3I.

1-6.33 SKILL-RELATED TRAINING PROGRAM

The rules and procedures governing tuition reimbursement for employee participation in skill-related courses presented by accredited educational institutions are given in the reference cited in Section 1-3.1AA.
TRAINING PROGRAM

1-6.34 CN-THE-JOB TRAINING

In order to increase the advancement potential and worth of the employee to the Department of Highways, the District R/W Supervisor and/or the Chief R/W Agent may assign an employee who has a particular specialty or function title (see Section 1-5.3) to train with and/or assist an employee who has another specialty or function title; e.g., a Staff Appraiser might be assigned to train with a Property Management Agent. In order for this cross-training to be of value to the Department:

A. Both the trainer and the trainee should be qualified and willing participants.

B. Such training should be carried out to include the completion of the particular work phase or unit.
SECTION 1-7
TRAVEL

Rules and procedures governing travel on State business are given in the reference cited in Section 1-3.10.
SECTION 1-3
VEHICLE OPERATION

Rules and procedures governing the use of State automobiles are given in the references cited in Section 1-3.1T. Also see Section 1-21.
SECTION 1-9
DAILY ENTRY DIARIES

1-9.1 GENERAL

The scrupulous maintenance of Daily Entry Diaries by R/W personnel assigned to
field duties provide a running record of their activities and all persons and
locations involved in their respective Departmental business contacts.

1-9.2 RULES

A. All R/W personnel assigned to field duties maintain Daily Entry Diaries.

B. At the end of each calendar year, Daily Entry Diaries are submitted to
the District R/W Supervisor.

C. Daily Entry Diaries are retained in District files for a period of seven
(7) years.

D. Diaries are obtained from the District stockroom. The use of National
Bank Book Company's No. 59-601, "Perpetual Date Book" (or equivalent) is
recommended.

1-9.3 PROCEDURES

A. The District R/W Supervisor (or his designee):

1. Provides a Daily Entry Diary to each employee assigned to field
duties.

2. Periodically audits the Daily Entry Diaries as necessary to assure
diary integrity.

3. Assures that the Daily Entry Diaries are retained in the District
files for a period of seven (7) years following the year of their
preparation.

B. All R/W personnel assigned to field duties:

1. Make daily entries into the Daily Entry Diary covering:

   a. Project title and parcel numbers worked on each day.

   b. Account to which time is charged; e.g., CS__________, Job
      number (R/W, FS, etc.)__________.

   c. A brief statement describing tasks performed, persons
      contacted, location of activities, etc.

   NOTE: Unusual occurrences or developments are of outstanding
   importance.

2. Submit the Daily Entry Diary to the District R/W Supervisor:

   a. Upon the latter's request.

   b. At the close of the calendar year.

   c. Upon termination of assignment to direct field duties.

   d. Transfer out of the District.

   e. Retirement or other termination.
SECTION 1-10
COMMUNICATIONS

1-10.1 GENERAL

A. A copy of any correspondence having an impact on existing rules and procedures is routed to the Administrative Services Section Supervisor to insure timely updating of this Manual.

B. Copies of correspondence are submitted to Records Control as specified in the reference cited in Section 1-3.1AB.

1-10.2 EXTRADEPARTMENTAL CORRESPONDENCE ORIGINATED IN HEADQUARTERS

All extradepartmental correspondence is prepared on letterhead and is signed as specified in the reference cited in Section 1-3.1Y.

Figure 1-10.2 indicates the normal signatory for each case shown on a representative list of extradepartmental correspondence.

<table>
<thead>
<tr>
<th>#/W TOPIC</th>
<th>WHEN ADDRESSED TO</th>
<th>HEADQUARTERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed answer to letter requested by higher authority</td>
<td>Anyone</td>
<td>As requested</td>
</tr>
<tr>
<td>Controversial matter, special, significant or abnormal commitment</td>
<td>Public or Legislator</td>
<td>Assistant Director for Highway Development</td>
</tr>
<tr>
<td>Controversial matter or criticism</td>
<td>Attorney General Division</td>
<td>Chief R/W Agent</td>
</tr>
<tr>
<td>Non-controversial topic, (normal assigned responsibilities)</td>
<td>Anyone</td>
<td>Branch or Section Supervisor as assigned by the Chief R/W Agent</td>
</tr>
<tr>
<td>Special R/W Division business</td>
<td>Person(s) affected</td>
<td>Chief R/W Agent</td>
</tr>
<tr>
<td>Departmental Publications, (Directives, Manuals)</td>
<td>FHWA</td>
<td>Assistant Director for Highway Development</td>
</tr>
<tr>
<td>FHWA citations, (procedural matters)</td>
<td>FHWA</td>
<td>Assistant Director for Highway Development</td>
</tr>
<tr>
<td>FHWA Certification</td>
<td>FHWA</td>
<td>Chief R/W Agent</td>
</tr>
<tr>
<td>Request for legal opinion</td>
<td>Attorney General Division</td>
<td>Assistant Director for Highway Development</td>
</tr>
<tr>
<td>Transmit Condemnation package</td>
<td>Attorney General Division</td>
<td>Negotiation Section Supervisor</td>
</tr>
<tr>
<td>Negotiation with railroad, State or Federal Agencies</td>
<td>The railroad, State or Federal agency</td>
<td>Acquisition Branch Supervisor</td>
</tr>
</tbody>
</table>

*May elect to secure signature by higher authority in any given case. If signature of Director or Deputy Director is required or desired, the originator must comply with the reference cited in Section 1-3.1AY.

FIGURE 1-10.2 NORMAL SIGNATORIES, EXTRADEPARTMENTAL CORRESPONDENCE
COMMUNICATIONS

1-10.3 INTRADEPARTMENTAL CORRESPONDENCE ORIGINATED IN HEADQUARTERS

A. The bulk of intradepartmental correspondence is conducted using the Intra-Departmental Communication (IDC) (HWY Form 700-008) or using preprinted A/W forms in the HWY Form 26X-XXX series. However, the Assistant Director for Highway Development or higher authority may elect to use letterhead for intradepartmental correspondence requiring their signatures.

Figure 1-10.3 indicates the normal signatory for each case on a representative list of intradepartmental correspondence.

B. Correspondence from Headquarters A/W Division to District is addressed to either the District Engineer or the District A/W Supervisor as appropriate.

<table>
<thead>
<tr>
<th>W/W TOPIC</th>
<th>WHEN ADDRESSED TO:</th>
<th>HEADQUARTERS SIGNATORY*</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>Assistant Director</td>
<td>Chief A/W Agent</td>
</tr>
<tr>
<td></td>
<td>for Highway Development</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or any Division head</td>
<td></td>
</tr>
<tr>
<td>Controversial matter</td>
<td>District Engineer</td>
<td>Assistant Director for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Highway Development</td>
</tr>
<tr>
<td>Controversial matter</td>
<td>District A/W Supervisor</td>
<td>Chief A/W Agent</td>
</tr>
<tr>
<td>Non-controversial matter</td>
<td>District Engineer</td>
<td>Chief A/W Agent</td>
</tr>
<tr>
<td>(Assign responsibilities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-controversial matter</td>
<td>District A/W Supervisor</td>
<td>Branch Supervisor</td>
</tr>
<tr>
<td>(Assign responsibilities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounting matter</td>
<td>Finance Officer</td>
<td>Branch Supervisor</td>
</tr>
<tr>
<td>(Assign responsibilities)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operational details</td>
<td>District A/W Supervisor</td>
<td>Section Supervisor</td>
</tr>
<tr>
<td>(Assign responsibilities)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*May elect to secure signature by higher authority in any given case. If signature of Director or Deputy Director is required or desired, the originating must comply with the reference cited in Section 1-3.1AF.

FIGURE 1-10.3 NORMAL SIGNATORIES, INTRADEPARTMENTAL CORRESPONDENCE

1-10.4 RIGHT OF WAY CONTROL AND PROPERTY MANAGEMENT SYSTEMS (ROWCS AND PMS)

The Right of Way Control System (ROWCS) and the Property Management System (PMS) are computerized record and communication systems which are designed to provide management with instant information on the project and parcel status on the acquisition, property management and relocation assistance functions. Related technical data is covered in the reference cited in Section 1-3.1C. Data input requirements are noted throughout this Manual.

CH. 1
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1-10.5 VERBAL COMMUNICATIONS ON OFFICIAL MATTERS

A. Verbal communications are used in creating official commitments only in emergency situations.

B. Whenever verbal communications create or impact an official commitment, the personnel involved in the verbal communication confirm the communication in writing in order to assure adequate documentation (see Section 1-10.1).

C. In order to assure that information resulting from verbal communications is disseminated to all affected personnel, the Chief R/W Agent recognizes verbal communications from District offices on Right of Way matters only when received from the District Engineer or the District R/W Supervisor.
SECTION 1-11
FHWA SANCTIONS

1-11.1 GENERAL

If the FHWA considers that the Department of Highways lacks, or is not
adhering to, approved right of way practices and procedures, the FHWA Division
Administrator may cite the case and may specify his intended action in a
letter addressed to the Director of Highways. This letter may specify
suspension of FHWA participation in R/W costs as indicated in the reference
cited in Section 1-3.3A.

1-11.2 RULES

FHWA citations are completely resolved in no more than 300 calendar days from
date of receipt by the Department. The agreed schedule is as follows:

A. The Department writes answer to an original citation denying alleged
violations of policy procedure within 60 days of receipt, or the citation is
validated.

B. FHWA writes reply to the Department's answer (step A) within 60 days of
receipt, or the citation is invalidated.

C. The Department re-submits its answer to FHWA's reply (step B) within 60
days, or citation is validated.

D. FHWA rejects Department's 2nd submission of answer (step C) within 60
days, or citation is invalidated.

E. If necessary, validity of citation is mutually decided by designated
personnel from both agencies in a final meeting held within 30 days after FHWA
rejects Department's 2nd submission of answer.

1-11.3 PROCEDURES

A. Upon receipt of a sanction letter, the Assistant Director for Highway
Development (or his designee):

1. Determines the amount and type of relevant information available in
Headquarters.

2. Requests response by the appropriate District Engineer and may
recite:

   a. Appropriate special instructions.

   b. Delineation of actions that can be taken by Headquarters.

   c. Types of information that can be furnished by Headquarters upon
request.

B. The District Engineer (or his designee):

1. May request additional information from Headquarters as necessary.

2. Investigates the facts relating to the citation.

3. Submits a report to the Chief R/W Agent within 30 days of the
receipt of the citation. This report either substantiates the Department
of Highways action or the FHWA sanction.

C. The Chief R/W Agent (or his designee):

1. Coordinates as necessary with the Finance Officer on the submission
of a "Reclalm Voucher," if appropriate.
FHWA CITATIONS

2. Prepares a proposed response to the citation.
3. Submits the proposed response to the Assistant Director for Highway Development.

D. The Assistant Director for Highway Development:
1. Reviews and signs acceptable responses to the FHWA (Ref: Sec. 1-10.2).
2. Sends copies to the appropriate District Engineer.
SECTION 1-12
LEAD TIME AND SCHEDULING

A. Lead time for right of way activities is governed by critical path programming (Ref: Sec. 1-3.1AC). Time allocations for the completion of all R/W activities are established at the District level by the District Engineer or his designee in accordance with the reference cited in Section 1-3.1A0. The schedule is reviewed by the R/W Division in Headquarters and by the Attorney General Division. This review evaluates the time allowed for all R/W activities including the preparation and trial of condemnation cases.

B. Right of Way lead time begins when the access hearing plans are delivered to the Right of Way Division. R/W lead time is based on numerous factors: e.g., size of the project, size of the staff, availability of juries, etc. The R/W Division is normally authorized to proceed with right of way work upon receipt of an approved Work Order Accounting Plan and approved plans as specified in Section 2-16 of the reference cited at Section 1-3.1B. Procedures for the approval of various types of R/W plans (e.g., limited access, State lands, etc.) are given in the references cited in Sections 1-3.1C through 1-3.1H. (See also Sec. 6-12.)
SECTION 1-13
HIGHWAY LOCATION AND DESIGN

1-13.1 GENERAL

A. Interdisciplinary teams are employed (Ref: Sec. 1-3.1P) in all stages of highway planning, location and design. Both Headquarters and District R/W personnel are called upon for their professional expertise (Ref: Sec. 1-3.1A1).

B. The District R/W Supervisor (or his designee) makes project field inspections at appropriate times throughout the development of a project to assure that adequate consideration is given to significant right of way elements involved in the location and design of the project, including possible social, economic, and environmental effects.

C. R/W personnel may contribute to the highway planning team effort in various areas of which the following are examples:

1. Provide and evaluate ownership information.
2. Identify the extent of the impacted area.
3. Estimate costs of acquisition, relocation assistance and other R/W costs of proposed plans.
4. Identify and evaluate potentials for airspace development.
5. Identify and evaluate opportunities for multiple use of roadway properties, i.e., accommodation of highway needs, and non-highway uses/services through joint development of transportation and utility corridors. Such opportunities may require or be recognized by:
   a. Identification and location of new and existing non-highway rights of way with respect to proposed highway rights of way.
6. Identify historical sites, open space and park lands, recreation areas, and wildlife and waterfowl refuges.
7. Identify the need for local roadway facilities; e.g., frontage service roads.
8. Identify needs for, and feasibility of, functional replacement of publicly-owned real property (see Section 6-12.5).
9. Identify and evaluate social, economic and aesthetic impacts of the proposed project upon adjacent property, the community, and upon the region, including, but not limited to:
   a. Impact of the proposed project on urban planning, and existing and future land use development trends.
   b. Impact of the proposed project on community affairs (e.g., effects upon school attendance areas, accessibility of community shopping facilities to residential areas, etc.)
10. Identify displacements of people, businesses, farms and non-profit organizations, availability of satisfactory replacements and last resort housing needs; evaluate related costs.

D. The District Engineer (or his designee) conducts both the location (corridor) public hearing and the design public hearing as specified in the references cited in Sections 1-3.1AD and 1-3.1AE.
1-13.2 RIGHT OF WAY COST ESTIMATES

A. Upon the request of the District Engineer (or his designee):

1. The District R/W Supervisor assigns Staff Appraisers to prepare appropriate R/W cost estimates as specified in Section 4-2.

2. Relocation Assistance Agents are assigned to prepare appropriate relocation plans and relocation costs estimates as specified in Section 12-4.

3. Upon request, an engineer will accompany the Staff Appraiser and/or the Relocation Assistance Agent on his field inspection to advise on the design and the location details being studied.

B. The District R/W Supervisor (or his designees) maintains file copies of all reports. An additional copy is maintained by the District Engineer, (or his designee) on all studies submitted by the District. Such copies are retained for three (3) years from the date of the final voucher for the project.
SECTION 1-14
RIGHT OF WAY PLANS

A. Right of Way Plans are prepared by the Engineering Staff of the appropriate District according to the procedures specified in Section 4-12 of the reference cited in Section 1-3.1B. Plans so prepared are in conformance with the reference cited in Section 1-3.3C. These plans include the operating right of way (see Section 3-2), land service facilities (e.g., rest areas, frontage service roads, etc), and acquisition data. If the acquisition is for a limited vertical dimension or is for multiple or joint use (Ref: Secs. 1-3.1AF and 1-3.AG), an appropriate explanatory note may be included on the plan.

B. The District R/W Supervisor:

1. Assures that R/W data of the types listed in Section 1-13.1C are made available to the District Engineer.

2. Assists the District Engineer (or his designee) in identifying and assigning R/W parcel numbers to the affected ownerships shown on the R/W Plans.

3. Determines the types and extent of the property and/or property rights required (e.g., fee, easement, permit, etc.)

4. Assures that R/W Plans are complete to the extent that the necessary data are depicted thereon.

C. The District Engineer submits the R/W Plans to the Roadway Development Division Engineer for review and approval as specified in the references cited in Sections 1-3.1I through 1-3.1N.
SECTION 1-15 RESERVED
(Formerly ADVANCE ACQUISITION, AUTHORIZATION OF - Now Sec. 6-12.2)

SECTION 1-16 RESERVED
(Formerly HARDSHIP ACQUISITION AND PROTECTIVE BUYING, AUTHORIZATION OF - Now Sec. 6-12.3)

SECTION 1-17 RESERVED
(Formerly OUTDOOR ADVERTISING RIGHTS ACQUISITION FOR HIGHWAY BEAUTIFICATION - Now Sec. 6.12.4)

SECTION 1-18 RESERVED
(Formerly CRITICAL PROJECT DEVIATION PROCEDURE, AUTHORIZATION OF - Now Sec. 6-12.6)
SECTION 1-19
FHWA REGULATIONS, COMPLIANCE WITH

1-19.1 RIGHT OF WAY PROJECTS

Unless specifically noted (e.g., "On non-Federal-aid projects..."), all operating regulations and procedures in this manual are intended to comply with applicable Federal regulations specified in the references cited in Section 1-3.3.

1-19.2 LANDSCAPING AND SCENIC ENHANCEMENT PROJECTS

Although written primarily for highway right of way projects, the operating regulations and procedures in this manual apply to landscaping and scenic enhancement projects (rest areas, overlocks, and scenic areas) except that:

A. Participation of Federal funds* might be obtained in limited special situations in the acquisition of a dwelling or its related buildings through negotiations.

B. There is no participation of Federal funds* in the project if any dwelling or its related buildings are acquired by condemnation proceedings.

*Applies only to projects financed with "Highway Beautification Act Funds", also known as Federal funds for "landscaping and scenic enhancement," Section 319(b), Title 23 United States Code, revised in Title III Highway Beautification Act of 1965. The Department of Highways recognizes Chapter 2, Section 9 and Chapter 6, Section 3 of FHPM, Volume 7 (reference cited in Section 1-3.3a).

1-19.3 OUTDOOR ADVERTISING CONTROL PROJECTS

The operating regulations and procedures applicable to Outdoor Advertising Control Projects are given in the reference cited in Section 1-3.1D as indicated in Section 6-12.4.

1-19.4 MANAGEMENT OF REVISED FEDERAL REGULATIONS

The Chief R/W Agent (or his designee):

A. Continuously monitors applicable Federal regulations to assess their impact on the operating regulations and procedures of this manual and other R/W Division publications.

B. Not more frequently than every nine months, prepares and issues revisions to R/W Division operating regulations and procedures when a change in Federal regulations necessitates such action. The time period necessary to implement such revisions is directly dependent upon the magnitude of the impact of the revision on existing regulations and procedures.

C. Annual Section 1-26 is applicable.
SECTION 1-20
AUTHORITY TO ENTER LANDS FOR SURVEYS, APPRAISALS, ETC.

"The commission or its duly authorized and acting assistants, agents or appointees shall have the right to enter upon any land, real estate or premises in this state, whether public or private, for purposes of making examinations, locations, surveys and appraisals for highway purposes. The making of such entry for said purposes shall not constitute any trespass by the commission or by its duly authorized and acting assistants, agents or appointees" (RCW 47.01.170).

Department personnel normally obtain the consent of the property owner or tenant before entering private lands. Personnel may enter without such consent only on authority of the Director or Deputy Director.

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SECTION 1-21
ACTIONS AGAINST STATE EMPLOYEES

A. CIVIL SUITS

1. Private parties may bring suits against employees of the State. The statutes of the State protect its employees in the following circumstances:

If an action or proceeding for damages is brought against any Department employee based on the employee's acts or omissions while performing, or in good faith purporting to perform, his official duties, the employee may request that the defense of said action or proceeding be conducted by and at the expense of the State. The employee submits a written request to his immediate supervisor detailing the facts in the case and agreeing to cooperate in the defense. The supervisor submits the request through channels to the District Engineer or the Assistant Director for Highway Development, as appropriate. The request is then referred through channels to the Attorney General Division. Upon concurrence, an AG is assigned to appear and defend the employee at the State’s expense. In this situation, if a judgment is rendered against the employee, the State's Tort Claims Revolving Fund will pay any part of the judgment which is not covered by any valid and collectible liability insurance held by the employee or the State.

The employee is liable if the employee's actions or omissions constitute gross negligence or willful misconduct.

2. While our employees are covered by the blanket State vehicle liability policy while operating State equipment, this policy does not offer protection when State vehicle operation is not involved.

B. ADMINISTRATIVE ACTIONS BY THE DEPARTMENT

1. When a Department employee is involved in an accident which results in personal injury to himself or to another employee involving an industrial insurance claim, bodily injury or property damage to a member of the general public, or damage to the State's vehicles, machinery, equipment or property, such an accident is made the subject of consideration by the Accident Review Board as provided in the reference cited in Section 1-3.1S.

2. An employee who is determined by the Accident Review Board to have acted improperly or negligently may be subject to disciplinary action and/or a requirement to reimburse the State in the amount of damages to the State-owned property. (Ref: Section 1-3.1S, 1-3.1T, 1-3.24A; D 75-10 (A5), Vehicle Accidents.)
SECTION 1-22
FILING OF PERSONAL SERVICE CONTRACTS

1-22.1 RULES

A. In accordance with the reference cited in Section 1-3.228, the following types of personal service contracts are filed with the Office of Program Planning and Fiscal Management (OPP6FM) and the Legislative Budget Committee:

1. All contracts for whatever purpose wherein the contract fee is $2,500.00 or more.

2. All contracts and revisions thereto wherein because of the revision(s) the total fee is $2,500.00 or more. In this case, both the original contract and the revision(s) thereto are filed.

B. A personal service contract is defined as an agreement with an independent contractor for the rendering of personal services to the state. Personal services for these purposes means:

1. An individual or organization performing a specific study, project or task where the criteria for performance is dependent upon the professional and technical expertise of the individual or organization.

2. Individuals not performing a specific study, project or task but who are retained on a contract basis because of the individual’s particular expertise.

3. Those contracts let for a specific study, project or task that are not normally handled through an open competitive bidding process due to the particular professional or technical expertise required.

4. A personal services contract should require specific professional or technical expertise to accomplish a work statement that is defined in terms that anticipate the rendering of an opinion, judgment or recommendation, and is to be accomplished within a given time frame.

C. Contracts are filed with OPP6FM and the Legislative Budget Committee at least ten days prior to the time work is to commence thereunder. An additional five days is required by the Department for signatures, transmittal, and return of filing forms.

D. The Department official or employee responsible for failure to file said contract as specified in C above is subject to a civil penalty of $300.

E. The following clause is inserted into all personal service contracts and revisions to such contracts:

"It is understood and agreed that (the contractor) will not commence work under this contract/revision until a commencement date is provided to (him) by the Department of Highways. Billing for any service performed prior to said commencement date will not be honored."

F. If a contract revision extends the due date of an already filed contract, no work may be performed between the due date of the original contract and the commencement date of the contract revision. Hence, the need for extension of due date should be made known at the earliest practicable date.

1-22.2 PROCEDURES

A. The District E/W Supervisor (or his designee):

1. Upon receipt of any proposed contract or contract revision requiring filing with OPP6FM (Sec. 1-22.1 above), prepares a letter of transmittal (using the IDC, HWY Form 700-008) which includes:

   a. A full explanation of the necessity for the contract and why the work cannot be accomplished by staff.
FILING OF PERSONAL SERVICE CONTRACTS

b. A list of the persons/firms who were considered for the contract and why the particular one was chosen.

c. Funding information, including: source (e.g., Motor Vehicle Fund, FHWA, Port District), and the percentage to be paid by each.

2. Transmits the original and the required number of copies of the contract together with the transmittal letter to the Chief R/W Agent at least 15 days prior to the commencement of work thereunder. The required number copies will vary with the service contracted for as specified in various sections of this Manual. In addition, two copies must be furnished for filing with OPP&FM and the Legislative Budget Committee.

3. Checks invoices to assure that no time prior to the approved commencement date has been charged, and, upon approval, prepares and transmits vouchers to the Chief R/W Agent.

B. The Chief R/W Agent (or his designee):

1. Reviews the data package (A2 above).

2. Prepares the Personal Services Contract Filing Face Sheet (Form SF 110).

3. Obtains the signature of the Assistant Director for Highway Development on the Filing Face Sheet.

4. Submits one copy each of the completed data package to OPP&FM and the Legislative Budget Committee.

5. Upon receipt of the commencement date from OPP&FM, notifies the District R/W Supervisor (or his designee) by telephone.

6. Stamps the commencement date on all copies of the contract and sends the required number of copies to the District R/W Supervisor.

7. Checks invoices or vouchers to assure that no time has been charged which is prior to the commencement date.

8. Forwards approved invoices/vouchers to the Finance Officer with a recommendation for payment.

9. Returns to the District R/W Supervisor all contracts which are not received on a timely basis and all vouchers for time prior to the approved commencement date together with an IDC (HWY Form 700-008) explaining the reasons for nonacceptance.

1-22.3 EMERGENCY PROCEDURES

In an emergency situation, the following procedures may be employed on an individual case basis:

A. The District R/W Supervisor (or his designee):

1. Proceeds as specified in Section 1-22.2A (above).

2. Adds the following information to the letter of transmittal:

a. The nature of the emergency.

b. Justification for proceeding to work before the end of the ten-day filing period.

c. A statement of what would result if the contractor were unable to proceed before the end of the ten-day filing period.
FILING OF PERSONAL SERVICE CONTRACTS

B. The Chief R/W Agent (or his designee):

1. Proceeds as specified in Section 1-22.2B(above).

2. Prepares and attaches to the face of the Personal Service Contract Filing Face Sheet (Form SF 110) a memorandum containing the information listed in Section 1-22.3A2(above).

3. Upon receipt of OER&FM’s approval (usually within an hour of their receipt of the data package), notifies the District R/W Supervisor that the contractor may begin work the next day.
SECTION 1-23
ADMINISTRATIVE REVIEW BOARD

A. The Administrative Review Board performs functions which authorize
deviations from the procedures prescribed by this manual. The nature of the
function and the mode of operation varies with the specific area of
abnormality and is set forth in the appropriate sections of this manual where
the action of the Board is called for as a means of seeking approval of the
deviations. (Ref: 1-3.3A)

B. The jurisdiction of the Administrative Review Board is limited to:

1. Approval of Administrative Settlements above the limit of the
   District Engineer's approval authority. See Secs. 6-9.2 and 6-10.33.

   See Section 6-12.6.

3. Action on appeals by relocation displacees who are aggrieved as to
   eligibility for, or the amount of any relocation assistance payment. See
   Section 12-10.3E.

4. Other areas of proposed deviation from the procedures set forth in
   this manual arising on a case basis. The Administrative Review Board may
   be convened at the call of any member and shall record the nature of the
   proposed deviation, the reasons advanced in support of the proposal, and
   a rationalization of the decision reached. The affirmative vote of any
   two members determines whether the proposed deviation procedure shall be
   utilized. A memorandum report of the proceedings over the signatures of
   the members voting in the affirmative and covering the matters set forth
   above shall become a part of the case file. A dissenting member may
   append his rationalization to such memorandum report over his signature.

C. The members of the Administrative Review Board are:

1. The Assistant Director for Highway Development.
2. The appropriate District Engineer.
3. The Chief Right of Way Agent (acts as chairman).
SECTION 1-24
PROCESS REVIEW

Management review and control of the right of way program is provided by the computerized Right of Way Control System (ROWCS) and by periodic field reviews performed by the R/W Division Branch Supervisors.

The ROWCS (see Section 1-10.4 and the reference cited in Section 1-3.1C) is a management tool which provides a continuing and concurrent review and control of all active right of way projects. ROWCS provides information on the appraisal, appraisal review, acquisition, condemnation, property management and relocation assistance functions. In addition, the Property Management System (PMS), which is a semi-autonomous subsystem of ROWCS, provides in-depth information on the property management function.

As a supplemental review and control of R/W operations, the R/W Division Branch Supervisors perform a field inspection and conference in each District at least once each year. The Acquisition Branch Supervisor reviews and inspects the appraisal, appraisal review, acquisition and condemnation functions. The Property Management and Relocation Assistance Branch Supervisor reviews and inspects the property management and relocation assistance functions. The Administrative Services and Title Branch Supervisor reviews and inspects title and administrative (including ROWCS) functions. If, either as a result of the field inspection or as a result of the introduction of new or revised procedures, the Chief R/W Agent determines that an in-service training session or workshop is necessary, such training event is scheduled by the Administrative Services Section Supervisor (see Section 1-6) and is conducted by the appropriate Section Supervisor (e.g., the Appraisal Section Supervisor conducts appraisal seminars, etc.) Such training events may be conducted either in a District or in Headquarters, as appropriate.
SECTION 1-25
PROJECT CERTIFICATION

Within Section 1-25, items which are preceded by an asterisk (*) apply only to projects in which Federal funds participate in any part of the cost of the project.

1-25.1 DEPARTMENT OF HIGHWAYS PROJECTS

1-25.11 GENERAL

A. Right of Way is certified clear by "project certification" prior to advertising the physical construction for bid or prior to proceeding with force account construction. *For projects in which participation of Federal funds is anticipated, project certification is affirmed in writing and submitted to the FHWA Division Administrator. *The Department proceeds after being notified of FHWA acceptance of the project certification.

B. Project certification may be affirmed for those construction projects wherein the Department has (1) complied with local, State and Federal regulations governing real property acquisition and relocation assistance, and (2) physical right of way clearance, utility and railroad work has been completed or arrangements have been made for it to be undertaken and completed through proper coordination with the physical construction schedules.

C. The Assistant Director for Highway Development approves and executes for the Department all documents leading to the award of a construction contract for a Department of Highways project. Contract advertising (ad) dates are confirmed and construction contracts are awarded in a timely manner at weekly "calendar" meetings held by the Assistant Director for Highway Development. Once an ad date has been set, it can be changed only on approval by the Assistant Director for Highway Development.

D. The Right of Way Division determines and monitors the acquisitions and relocations necessary for proposed construction contracts. Not later than the second Monday after receipt of a project's PS&E in Headquarters, all aspects of the project are discussed and, if possible, a contract ad date for the project is recommended. Such date, when set by the Assistant Director, is again reviewed by all affected Departmental areas of responsibility immediately preceding the contract ad date and, if possible, the recommendation is made to proceed. The Assistant Director, at his discretion, may subsequently authorize the project to be advertised for bids.

E. Those construction projects for which there is limited time remaining before the scheduled ad date, are given special attention and coordination by all concerned Departmental areas of responsibility.

1-25.12 RULES

A. District and Headquarters Right of Way personnel coordinate on obtaining clearance of the right of way and pertinent documentation through the medium of the ROWCS.

B. Projects on the Priority Programming Division’s "Hot List" are given immediate attention and coordination by all affected areas of responsibility.

C. The procedures and guidelines in this Manual (or individually documented accepted deviation therefrom) are adhered to.

D. Questions concerning Departmental ownership of the right of way for a project are answered by the Right of Way Division at the following meetings:

1. Project coordination.

2. Contractors' bid opening.

3. The Assistant Director's "calendar."
PROJECT CERTIFICATION

2. The Chief Right of Way Agent certifies that the Right of Way is clear (project certification) for a project when, in accordance with approved Departmental procedures:

1. Either R/W acquisition is:
   a. Not required.
   b. Completed, including:
      1) Legal and physical right to occupy and to use all rights of way required for the proper execution of the project have been acquired.
      2) Control of access rights, when pertinent.
   c. Completed, except, in very unusual and fully explained conditions based on serving the public interest, it is decided that the circumstances with respect to acquisition or right of occupancy and use of a few specifically identified parcels warrant proceeding with advertisement for bids or with force account construction in advance of completion of the acquisition of the rights of the said few parcels.

2. Either relocation assistance is:
   a. Not required.
   b. Completed, including:
      1) Explanation of the Relocation Assistance program at all necessary public hearings.
      2) All displaced individuals or families have been relocated.

3. Affected interests in real property held by utilities and railroads are clear or will be cleared coincident with or subsequent to physical construction and the pertinent railroad and utility agreements and/or relevant construction contract provisions are in accord with such clearances.

4. Either physical right of way clearance, utility, and railroad work:
   a. Has been completed.
   b. Has been arranged to be undertaken and completed through proper coordination with the physical construction schedules.

1-25.13 PROCEDURES

A. The District R/W Supervisor (or his designee) assures that accurate and timely inputs are made into ROWCS on all phases of the estimate, appraisal, appraisal review, acquisition, property management, and relocation assistance processes for each parcel as specified in the appropriate chapters in this Manual.

B. As a part of the Headquarters review (see Section 6-8.5 and the appropriate chapters of this Manual), each Section Supervisor (or his designee) assures that accurate and timely inputs are made into ROWCS.

C. The Chief R/W Agent (or his designee):

   1. Monitors and/or inputs condemnation data into ROWCS (see Section 6-10).
PROJECT CERTIFICATION

2. Upon receipt from the Roadway Development Engineer of a copy of the PS&E, the Notice of Project Title Adoption (HWY Form 221-009), and a Transmittal: PS&E Check-in and Review Routing (HWY Form 221-002), for a specific project:

a. Makes the initial entries on the Roadway Development Project History (HWY Form 262-059) and inserts this form into the E/W Division's copy of the Highway Development Project Status Report called the "Roadway Development Book".

b. Obtains a printout from ROWCS on "BGWC; BAS" (Screen 104) to determine the E/W status of each parcel on the project. Obtains additional printouts until E/W "clear" status is reported.

c. Checks the Project Report (HWY Form 226-546) in the PS&E for requirements for additional right of way, sunry sites, access roads, utility agreements, etc.

d. Prepares and transmits to the Roadway Development Engineer the Memo: Report on Advance Construction Plans (HWY Form 262-058) covering the E/W status of the project. If certification to the FHWA is not required and if the right of way is either clear or there is no right of way to be acquired, this "Memo" is the right of way project certification.

(1) If the E/W is "clear" (i.e., there are no "Exceptions") or if there is no E/W to be acquired, the "Memo" is initialed by the Acquisition Branch Supervisor.

(2) If there is E/W to be acquired, the "Memo" is initialed by the Chief E/W Agent.

3. Attends the weekly (Friday morning) meeting conducted by the Scheduling and Control Engineer to provide E/W inputs into the Highway Development Project Status Report.

4. Coordinates with the appropriate District E/W Supervisor on any remaining E/W acquisitions/condemnations.

5. Provides E/W liaison at the weekly (Monday morning) Highway Development Project Status Report Conference during which conference telephone calls are made to each District to discuss and resolve any problems concerning a project.

6. For those projects which appear on the "Hot List" (see Section 1-25.12B), notifies the Scheduling and Control Engineer indicating either:

a. Those projects on which either the right of way is clear or the Department has the legal right of immediate possession and use.

b. A justification for and an estimate of the number of working days (in excess of those allowed on the "Hot List") that will be required to obtain the property rights and clearance arrangements needed to certify the right of way for the project.

7. Where certification to the FHWA is to be made, provides for the preparation and delivery of the appropriate "Certification Letter" to the FHWA Division Administrator. The letter contains appropriate clauses (see Figure 1-25.13C7) to describe the E/W status.

a. A certification without exceptions/variances is signed by the Chief E/W Agent for delivery at least three weeks prior to the Contract Ad Date.

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b. A certification with exceptions/variances (see Figure 1-25.13C7b) is signed by the Assistant Director for Highway Development for delivery at least four weeks prior to the Contract Ad Date.

c. In every case in which a certification with exceptions/variances has been made, a "Recertification Letter" (see 1-25.13C7c) must be submitted prior to the actual construction contract award date. This letter affirms that the previously cited exceptions/variances have been eliminated.

d. A R/W Project Analysis (HWY Form 262-060) is attached to each certification and recertification letter.

8. Attends the "Assistant Director's Calendar" meeting (see Section 1-45.12D) to both:
   a. Answer questions on R/W matters.
   b. *Verify receipt of appropriate FHWA authorization to proceed.

9. After the project has gone to Contract Ad, records all pertinent status information in the R/W Division's copy of the Highway Development suspense book for uses which may be required at the Contract Ad Opening Meeting and at the Assistant Director's Calendar meeting prior to the awarding of a construction contract.

1-25.2 LOCAL AGENCY PROJECTS

1-25.21 GENERAL

*A. Activities by a local agency, such as a county, city or town, on Federally-funded State Aid projects are monitored for the FHWA by the Assistant Director for Planning, Research and State Aid, with the A/W Division monitoring all right of way aspects of such projects.

B. *The local agency submits an "Assurance Letter" to the Chief R/W Agent prior to start of property acquisition, affirming its ability to comply with Federal regulations as to acquisition and relocation assistance. Upon concurrence, the letter is endorsed by the Chief R/W Agent, submitted to the FHWA and the local agency is notified of such concurrence.

C. *A local agency submits a "Letter of Certification" to the Chief R/W Agent prior to advertising for construction bids and awarding of project construction contracts. When the letter is forwarded to FHWA by the Department under a transmittal letter denoting Departmental acceptance or concurrence, the combined letters serve as the basis for Departmental certification of right of way to the FHWA.

1.25.22 RULES

A. *The District R/W Supervisor coordinates with the District State Aid Engineer the handling of R/W matters on local agency Federal-aid projects.

B. *When requested by a local agency, and upon subsequent determination by the Chief Right of Way Agent that such local agency is organized and equipped to comply with pertinent State and Federal regulations governing acquisitions and relocation assistance for public projects, the Chief Right of Way Agent may affirm such determination by endorsement of subsequent, relevant and appropriate applications by such local agency for Federal participation in the costs of such projects.

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PROJECT CERTIFICATION

1-25.23 PROCEDURES

A. In accordance with the procedures more specifically described in the pertinent references cited in Sections 1-3.1AH, 1-3.1AV, 1-3.1AW or 1-3.1AX.

The District Right of Way Supervisor (or his designee):

1. Upon request for authorization of Federal aid in the costs of a public project, verifies that the requesting local agency is organized and equipped to carry out an acquisition and relocation assistance program in accordance with the pertinent State and Federal regulations.

2. Audits the processes and reviews the practices of the local agency as to acquisitions and relocation assistance on public projects.

3. Assists local agencies in completing necessary correspondence with the Chief Right of Way Agent.

B. The Chief Right of Way Agent (or his designee):

1. Coordinates with the District Right of Way Supervisor and the local agencies as required to determine that the local agency's organizational and procedural techniques qualify for Federal aid.

2. Verifies the validity of statements made in the "Assurances Letters" and, upon concurrence, signs the "Endorsement" thereon (see Figure 1-25.23).

3. From data submitted by the local agency, verifies the accuracy of statements made in any "Letter of Certification" from such local agency.

4. Transmits data to and advises the Assistant Director for Planning, Research and State Aid on Right of Way matters relating to public projects of local agencies.
PROJECT CERTIFICATION

Either of the following statements is used as appropriate:

"Right of Way has been acquired in accordance with current FHWA directives covering the acquisition of real property."

"Acquisition of right of way is not required for this project."

Right of Way Certification:

"I hereby certify that all necessary rights of way, including control of access rights (when pertinent), have been acquired including legal and physical possession."

Lands and Improvements:

"All occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage, or demolish these improvements and enter upon all lands."

Lands only:

"All occupants had (previously) vacated the lands and the State has physical possession and the right to enter upon all lands (within existing R/W)."

Improvements only:

"There (were/are) no improvements (remaining) to be removed or demolished for the above titled project."

Relocation Assistance Certification (either of the following is used as appropriate):

"I further certify that our previously submitted assurances** of an adequate relocation assistance program and real property acquisition regulations have been fully implemented. All eligible persons and occupants of the right of way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing."

"I further certify that there were no individuals or families displaced by the above cited project. Therefore, the provisions of current FHWA directives covering the relocation of displaced to DSSS housing and availability of adequate replacement housing are not applicable to this project."

Date of Certification Letter:

"Dated at Olympia, Washington, this day of .

**Departmental publications relative to R/W regulations and separate statements specific to the project.

FIGURE 1-25.13C7 CERTIFICATION LETTER LANGUAGE (WITHOUT EXCEPTIONS/VARIANCES)
PROJECT CERTIFICATION

Division Administrator
Federal Highway Administration
P. O. Box 29
Olympia, Washington 98507

I-5-1(80) 45
Headquarters Road to Toutle River
SR 508 242134M RW2000

Dear Sir:

I hereby certify that all necessary rights of way, including control of access rights, have been acquired, including legal and physical possession. All occupants have vacated the lands and improvements and the State has the right to remove, salvage or demolish any improvements and to enter on all lands.

I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants within the right of way have been offered decent, safe and sanitary housing.

Exceptions to the above certification are as follows:

4-1813, Austin - Acquired, Salvage rights obtained by grantor. Possession date stipulated at June 27, 1973. Now has variance language.

4-1815, Austin - Same owner as 4-1813 above. Shed in right of way to contractor for demolition. Possession date at June 27, 1973.


4-1905, Castlerock, Town of - Utility Engineer negotiating CC #3195. Supplemental No. 1 pending.


Very truly yours,

W. A. BULLEY
Director of Highways

By: W. M. FOSTER,
Assistant Director for Highway Development

FIGURE 1-25.13C7b CERTIFICATION LETTER WITH EXCEPTIONS/VARIANCES

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Division Administrator
Federal Highway Administration
P.O. Box 29
Olympia, Washington 98507

UPDATED/REVISED
I-5-1(80)45
Headquarters Road to Tucute River
SR 5 CS 2123H RW2000

Dear Sir:

I hereby certify that all necessary rights of way, including control of access rights, have been acquired including legal and physical possession. All occupants have vacated the lands and improvements and the State has physical possession and the right to remove, salvage, or demolish these improvements and enter on all lands.

There are improvements remaining to be removed or demolished for the above cited project.

I further certify that our previously submitted assurances of an adequate relocation assistance program and real property acquisition policies have been fully implemented. All eligible persons and occupants of the right of way within this project have been relocated to decent, safe and sanitary housing or have been offered decent, safe and sanitary housing.


Very truly yours,

W. A. BULLEY
Director of Highways

By: KEITH L. DENSLEY
Chief Right of Way Agent

FIGURE 1-25.13C7c RECEITIFICATION LETTER
PROJECT CERTIFICATION

(Agency Letterhead)

Mr. W. A. Bulley
Director of Highways
Highway Administration Building
Olympia, Washington 98504

City of
PAM 4663 (3)
Southeast Boulevard

Dear Mr. Bulley:

The City of submits the following Relocation Assistance Assurances for the referenced project:

The City of Washington, assures that within a reasonable period of time prior to displacement, comparable replacement housing will be available or provided to each displaced person. It also assures that no person lawfully occupying real property shall be required to move without at least 90 days written notice of the date by which such move is required. It further assures that its relocation program is realistic and adequate to provide an orderly, timely and efficient relocation of displaced persons as provided for in its relocation assistance operating procedures.

Very truly yours,

Public Works Director

CC:
Engineering
Real Estate

ENDORSEMENT:

March 31, 1975
Division Administrator
Federal Highway Administration
Olympia WA 98507

I have reviewed and accept the assurance for the above referenced project.

Chief Right of Way Agent

FIGURE 1-25.23 ASSURANCE LETTER

CH. 1
9/1/76
SECTION 1-26
AMENDMENTS/REVISIONS TO THIS MANUAL

1-26.1 GENERAL

The Right of Way Manual, M 26-01 (HW), is the principal document covering approved right of way operating rules and procedures. Therefore, it is important that the Manual be kept current. All affected personnel are encouraged to prepare and submit suggested amendments/revisions as the need arises.

1-26.2 RULES

A. The responsibilities for preparation and issuance of Manual Amendments/revisions are specified in the reference cited in Section 1-3.1AN.

B. In order to assure timely update of this Manual, personnel preparing correspondence relating to manual items comply with the requirements of Section 1-10 of this Manual (COMMUNICATIONS).

1-26.3 PROCEDURES

A. All affected personnel or personnel assigned a specific pertinent area by the Chief Right of Way Agent submit to their immediate supervisors a draft of proposed amendments/revisions which includes:

1. An explanation of the proposed amendment/revision.
2. The justification for the proposed amendment/revision.
3. If applicable, documentation of the authority for the new/revised concepts.
4. The draft text, which is normally subdivided into three major subdivisions: "General" (background information), "Rules," and "Procedures."

B. All supervisors:

1. Review proposed amendments/revisions for their impact on internal operations and their aptness of thought.
2. Endorse and submit valid recommendations to the Chief Right of Way Agent.

C. The Chief Right of Way Agent (or his designee):

1. Reviews proposed amendments/revisions for clarity, consistency with other authorities, and aptness for inclusion in the Manual.
2. Coordinates proposed changes from original text with originator and/or supervisor of any impacted area of authority.
3. Drafts and/or edits Manual material for clarity, consistency with other authorities and continuity within this Manual.
4. Obtains approval by the Assistant Director for Highway Development on items which directly impact the District Engineers or other Directorates.
5. Distributes changes to Manual in accordance with the reference cited in Section 1-3.1AN.
SECTION 1-27
WORKTIME AND EXPENSE CHARGES
(To be Issued)
APPENDIX 1-1
FORMAL E/W DIVISION TRAINING COURSES

Progressive training is a series of courses the completion of which systematically develops the professional and occupational abilities of E/W personnel.

Tab A lists certain formal training courses in their normal order of attendance and includes recommended eligibility standards, prerequisites, etc.

Tab B presents descriptions of the training courses that are listed in Tab A.
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<td>MW 1A</td>
<td>A/W Introduction</td>
<td>A/W Division</td>
<td>(1) Either personnel with classification title of A/W Trainee (or higher) or, provided that the employee is specifically recommended by such employee's supervisor, A/W personnel in a paraprofessional position such as Data Services Assistant and others.</td>
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<td>Principles of Right of Way Acquisition</td>
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<td>(2) No additional prerequisites.</td>
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<td>MW 2C</td>
<td>Analysis of Income Properties</td>
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<td>Relocation Assistance</td>
<td>A/B/A - Course 501</td>
<td>(2) No additional prerequisites.</td>
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<td>MW 3A</td>
<td>Interpersonal Relations of A/W Acquisition</td>
<td>A/B/A - Course 202</td>
<td>(2) Academic: Satisfactory completion of MW 2A.</td>
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<td>MW 3B</td>
<td>Analysis of Residential Properties</td>
<td>A/B/A - Course VIII</td>
<td>(2) Academic: Passing grade in MW 3A.</td>
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<td>A/B/A - Course IV</td>
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<td>Analysis of Rural Properties</td>
<td>A/B/A - Course 111</td>
<td>(2) Academic: Passing grade in MW 3C.</td>
<td>9</td>
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<tr>
<td>MW 3E</td>
<td>Ecorporation of Right of Way Valuation</td>
<td>A/B/A - Course 401</td>
<td>(2) Academic: Passing grade in MW 3E.</td>
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<td>A/B/A - Course 301</td>
<td>(2) Academic: Satisfactory completion of MW 2A.</td>
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<td>Analysis of Grazing Lands and Cattle Ranches</td>
<td>A/B/A - Course V</td>
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<td>Analysis of Urban Properties</td>
<td>A/B/A - Course 11</td>
<td>(2) Academic: Passing grade in MW 4B.</td>
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**Notes:**

1. Procedures for the recommendation, nomination and selection of personnel eligible for training, are given in Section 1-6.31.

2. Personnel are recommended provided:
   a. The individual employee is willing to receive the training.
   b. Giving the particular employee the specific training course is estimated to be of potential value to the Department.

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9/1/76
TAB B
COURSE DESCRIPTIONS

RW 1A  RIGHT OF WAY INTRODUCTION

This is an in-service training course for all R/W Division personnel (including secretarial/clerical) which provides a basic understanding of the purpose and function of the R/W Division within the Department of Highways. Topics covered include: types and nature of activities, real estate instruments of conveyance, real estate and right of way vocabulary, and relationships with other divisions of the Department, other public agencies, and with private businesses which are routinely contacted in the course of business.

RW 1B  RIGHT OF WAY INDOCTRINATION

This is an in-service training course which provides a thorough understanding of all factors bearing on the State's acquisition of title to its rights of way. Topics covered include: familiarization with R/W Division procedures, preparation of instruments of conveyance to the State, solutions to title problems, elementary principles and techniques of appraisal, principles and procedures in condemnation, property management techniques, operation of the relocation assistance program, and completion of the acquisition functions.

RW 1C  PRINCIPLES OF RIGHT OF WAY ACQUISITION

This course gives the participant a thorough understanding of the basics of right of way -- appraisal, acquisition, law and engineering. All of the fundamentals are presented in this one intensive course. Through lectures, readings, demonstrations, examples and actual case studies, the application, of these principles is demonstrated. Topics covered include, but are not limited to, the following: Theory of Eminent Domain, Land Use Planning and Zoning, Interpreting Engineering Drawings, Understanding and Writing Legal Descriptions, Techniques of Effective Negotiation, Property Management and Disposal of Excess Property, Economics of Real Estate Valuation, Relocation Assistance, etc.

RW 2A  COMMUNICATIONS IN RIGHT OF WAY ACQUISITION

This course exposes the R/W Agent to the effects of communications and human relations principles on the acquisition process. Basic principles of salesmanship and public service are demonstrated in such a manner as to improve the abilities of the experienced R/W Agent and to encourage the rapid development of the less experienced agent. Recent research findings and theory on human behavior are also covered.

RW 2B  REAL ESTATE FUNDAMENTALS

This course deals with the basic language, and the economic, social and political principles affecting real property. The course provides the foundation in real estate concepts that is essential to all professional real estate practitioners.

RW 2C  ANALYSIS OF INCOME PROPERTIES

This course develops professional attributes and enables the real estate practitioner to communicate intelligently with persons and/or corporations that deal in income properties. The course covers methods of analyzing the value of real properties using all methods of income analysis, including: direct capitalization, residual techniques, annuity capitalization, mortgage equity techniques, and analysis of capitalization rates.

RW 2D  RELOCATION ASSISTANCE

This course is designed to equip participants with the latest information and skills necessary to effectively deal with the complexities of Relocation Assistance. Topics covered include, but are not limited to, the following: Philosophy, Theory and Background of P.L. 91-646, "The Uniform Relocation
COURSE DESCRIPTIONS

Assistance Act," Technical Briefings -- State and Local Agency Procedures, The Relocation Plan, Public Information, Moving Expenses, Replacement Housing, Supplemental Payments, Last Resort Housing, etc.

RW 3A INTERPERSONAL RELATIONS OF RIGHT OF WAY ACQUISITION

This course is a continuation of the work begun in RW 2A. The course provides an environment in which the principles of behavioral science are demonstrated. The specific objectives of the course are to assist RW personnel in developing a better understanding of the principles of human relations and in achieving greater effectiveness in their professional activities. Corollary to these objectives is the course's value in improving interpersonal relations within the organization.

RW 3B ANALYSIS OF RESIDENTIAL PROPERTIES

This course illustrates the effects of physical, functional, economic, political and social factors on residential real property. The professional Right of Way Agent deals primarily in residential property; therefore, he must develop an understanding of the impact of his profession upon the private citizen's most valuable possession--his home. This course deals exclusively in those areas, i.e., factors influencing continuity of residential value, their measurement, enhancement and degradation.

RW 3C CONDEMNATION

This course applies the factors influencing real property through case studies involving the taking of private property for public use. Topics covered include: measurement of just compensation, analysis of the difference between the before and after values, the theory of damage, analysis of severance and/or consequential damage, general and/or special benefits, and environmental influences.

RW 3D ANALYSIS OF RURAL PROPERTIES

A case study course for training in factors significant to rural properties, including the significance of: soil classifications, irrigation, farm income and operating costs, capitalization, transitional land, recreational land, easements, units of comparison in the real estate market, analysis of market data, and processing of field data.

RW 3E ECONOMICS OF RIGHT OF WAY VALUATION

This course was developed specifically as training tool for professionals in the field of appraisal of rights of way. Special emphasis is given to partial acquisitions. The course offers training in the working of case study problems under actual appraisal conditions. Topics covered include, but are not limited to, the following: Total Property Valuation, Market Data Approach, Highest and Best Use, Highway Acquisitions, Easements, Damages to the Remainder, Benefits, etc.

RW 4A MANAGING THE RIGHT OF WAY ORGANIZATION

This course presents principles formulated to assist in solving the administrative problems involved in managing an acquisitions program. The major aspects of management are studied. Major goals of this course are to stimulate managers to continuously examine their supervisory methods.

RW 4B ANALYSIS OF GRAZING LANDS AND CATTLE RANCHES

This course concentrates on differences between types of operations relative to range regions, carrying capacities, animal unit capacities, nutritive requirements, range surveys, and balanced livestock operations. Contributions to the functional and economic property capabilities are considered from the standpoints of: balanced livestock operations, building improvements, fencing, water conditions, topography and elevation, soil, feed and native forage, size of spreads, climate, and location. Additional topics may include: irrigated livestock ranch, valuation, estimating and processing livestock, market analysis and comparisons, market for cattle ranches, value contributions of public domain lands, pleasure-profit ranches, dude ranches, impact of recreational demand on range land values, eminent domain, partial
takings, evaluation of partial taking, sources of information specializing in livestock ranch appraising, livestock ranch problems, and the use of maps, plats, photographs and legal descriptions.

RW 4C ANALYSIS OF URBAN PROPERTIES

This course involves the application of theories and techniques that were demonstrated in earlier real estate courses. Case studies are used to develop a comprehension of the political, economic and social influences on real property ownership and to develop the ability to independently analyze future potentials of real properties.
APPENDIX 1-2
PERIODIC TRAINING

Three types of periodic training events are available to R/W Division employees: seminars, workshops, and Training Division courses.

A. AR/WA SEMINARS

The AR/WA and the Department of Highways sponsor annual seminars in the State of Washington. All permanent employees with the Classification Title of R/W Agent Trainee or above are eligible to attend one of these seminars per year.

B. R/W DIVISION WORKSHOPS

Periodic R/W Division workshops are held as the need arises. The selected attendees work together to achieve an acceptable solution to a common problem; e.g., appraisal requirements in the sign removal program.

C. TRAINING DIVISION COURSES

Courses managed by the Department Training Officer are listed in a Periodic Training Plan which is issued by the Manager, Administrative Division. District R/W Supervisors manage their training needs as to such courses with the Department Training Officer through the District Engineer.
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ORGANIZATION

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CHAPTER 2
ORGANIZATION

2-1 DEPARTMENTAL ORGANIZATION

This chapter contains a description of the organizational structure that exists in the Washington State Department of Transportation (WSDOT), promulgated in some cases by other authority. Statements regarding areas of authority and responsibility outside of the "HIGHWAY DIVISION" are included only to provide continuity of the concepts discussed. In those cases such statements do not constitute an assignment of authority or responsibility.

2-1.1 General

A. The Washington State Department of Transportation, with the approval of the Washington State Transportation Commission, operates a decentralized organization which consists of a central (i.e., headquarters) staff office and six district offices. The organizational structure of the department is set forth in the Organization Handbook published by Administrative Services.

B. The executive officers (Sec. 2-1.2.2) are the Secretary and Deputy Secretary of the department who carry into effect the commission's orders and policies.

C. The principal staff officers (Section 2-1.2.3) are the five Assistant Secretaries. The principal staff officers establish guidelines and criteria to ensure uniformity of operations in accordance with the Secretary's policy directives.

D. Permanently-assigned headquarters staff personnel establish operating regulations, and advise and assist district personnel in carrying out their assigned duties (Section 2-2).

E. Permanently-assigned district personnel carry out the programs of the department in accordance with the established operating regulations (Section 2-3).

F. All legal services for WSDOT are provided by the Chief Counsel, Transportation Division of the Office of the State Attorney General (see Section 2-4), hereinafter referred to as the Attorney General Division.

G. WSDOT bases its manpower requirements on the level of employment necessary to perform and administer all activities incidental to programmed projects. The services of outside consultants, specialists or other fee practitioners are secured only when the need arises for specialized skills or for personnel to augment the regular staff to meet peak program activity.

2-1.2 Responsibility and Authority

2-1.2.1 Washington State Transportation Commission

The seven members of the Washington State Transportation Commission are appointed by the Governor, with the confirmation of the Senate, to staggered six-
year terms (Ref: Chapter 47 RCW Public Highways). The State Transportation Commission, within the provisions of law, assumes and exercises authority over the administration of WSDOT and matters connected therewith or related thereto.

2-1.2.2 Executive Officers

The Secretary of Transportation is a professional administrator selected and appointed by the State Transportation Commission. He is the chief executive officer of WSDOT, and is responsible only to the State Transportation Commission. Assisted by the Deputy Secretary of Transportation, appointed by the Secretary, he carries into effect the Commission’s orders and policies. He directs all activities of WSDOT through the regulation of staff activities.

2-1.2.3 Principal Staff Officers

Within their respective areas of authority the principal staff officers are responsible to the Secretary of Transportation for the following:

A. Establishing and administering pertinent operating criteria and guidelines in accordance with the Secretary’s policy directives, state and federal regulations.

B. Auditing of performance.

C. Advising and assisting the District Administrators.

D. Administrative functions including the approval and execution of certain documents and instruments. (Ref: D 01-01, Delegation of Authority).

2-2 HEADQUARTERS ORGANIZATION

2-2.1 Chief Right of Way Agent

The Chief Right of Way Agent:

A. Administers statewide the operation of the Land Management Branch; manages the Olympia headquarters office which is the repository of the official records of all land management functions; is the chief branch policy-maker and coordinator of functions of the six District Land Management Supervisors in their relationship with the Federal Highway Administration (FHWA), Attorney General Division for Highways, employees bargaining unit, headquarters offices, and other offices of state government and railroad corporations on all agency land management/right of way matters.

B. Is a member of the Highway Division Administrative Board for land management matters which decides issues arising from real property acquisitions or sales, relocation assistance appeals, and personnel management.

C. Has principal duties consisting of:

   1. Maintaining a policy and procedural manual current with state law and federal regulations for compliance by all land management personnel.
2. Advising WSDOT personnel at all levels in land management matters.

3. Monitoring employee performance, recommending training and/or needed corrective action.

4. Coordinating with the WSDOT Personnel Manager in personnel management and in collective bargaining negotiations.

5. Responding to state and federal audits of Land Management performance.

6. Providing assurances to the FHWA and other offices of government at all levels, of availability of replacement housing for persons displaced by highway construction projects.

7. Obtaining advance approvals of project replacement or individual "Housing of last resort" plans, or proposed policy deviation needed from the FHWA or other offices of government in Relocation Assistance, Right of Way Appraisal, Acquisition, or Property Management.

8. Reviewing and deciding on the acceptance of all transactions specifying payments determined by review appraisers, or falling within the sole authority of District Administrators as set forth in Chapter 6 of this manual.

9. Reviewing projects' right of way acquisition status and certify ownership of rights of way necessary for construction to management and/or FHWA.

10. Reviewing and deciding on the acceptance of surplus property rentals as recommended by district offices, or sales of surplus property appraised below $10,000.00. Submit all others for approval to the Project Development Engineer or Assistant Secretary for Highways.

11. Reviewing and deciding on the acceptance of district office requests to hire consultants or fee appraisers and approve contracts specifying amounts less than $10,000.00. Making recommendations, as necessary, to the Consultant Selection Board for those in excess of $10,000.

12. Deciding on concurrence by the department, or making recommendations to the Administrative Board, in pretrial or stipulated settlements proposed by Assistant Attorney Generals.

13. Administering the functions of the supervisors of the Acquisition; Title, Condemnation and Records; Project Systems; and Property Management sections.

14. Carrying out other assignments made by the Project Development Engineer.
2-2.2 Acquisition Section Supervisor

The Acquisition Section Supervisor:

A. Is responsible for overseeing the functions of statewide appraisal, appraisal review, negotiations, and relocation assistance. The occupant reports directly to the Chief Right of Way Agent and represents the Chief Right of Way Agent, as requested, in specific negotiations, settlement and project status conferences, Federal Highway Administration procedural audits, and in coordination with the legal division condemnation requests or processing of damage claims.

B. Is also responsible for:

1. Promulgating procedures current with state law and federal regulations for compliance by district office employees.

2. Recommendations for corrective action and training.

3. Acquisition of rights of way from railroad corporations, state, and federal agencies.

4. Administering the headquarters unit of pool employees that are dispatched on temporary duty assignment to district offices.

2-2.3 Project Systems Coordinator:

The Project Systems Coordinator reports to the Chief Right of Way Agent and is responsible for:

A. Examining all WSDOT construction plans to determine that the state has acquired all of the right of way and/or permits essential to the project. These findings are reported to the Chief Right of Way Agent, District Administrators, and the Project Development Engineer. Monitors the progress of acquisition incident to all parcels outstanding and issues updated reports to the above noted officials and others.

B. Preparing Right of Way Certificates for issuance by the Chief Right of Way Agent to the FHWA.

C. Coordinating the reviews and scheduling of local agency projects in concert with the State Aid office and District Monitors.

2-2.4 Property Management Supervisor

The Property Management Supervisor:

A. Is responsible to the Chief Right of Way Agent for supervising the Property Management Section by assuring compliance with departmental operating regulations by:

1. Directing the review and inventory control of all excess property and sundry site (capital plant and materials sites) parcels.

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2. Directing the review of property disposition transactions to assure compliance with regulations and the validity of judgmental factors.

3. Providing technical advice on property management matters to others.

4. Directing the statewide promotion and sale of surplus properties including land and improvements by both auction and direct sale.

5. Directing the statewide promotion and operation of rentals, leases, airspace agreements, and joint use.

6. Performing field inspections of right of way operations as specified in Chapter 1, Process Review.

B. Provides for coordination with and advice to the District Administrators, other headquarters offices, the Attorney General Division, and the FHWA on property management functions.

C. Coordinates with the District Administrators on the investigation of citations regarding compliance with operating regulations governing the property management functions.

D. Formulates operating regulations governing the property management functions for approval by higher authority.

2-2.5 Relocation Supervisor

The Relocation Supervisor:

A. Is responsible for overseeing the statewide relocation assistance program. The occupant reports to the Chief Right of Way Agent through the Acquisition Branch Supervisor.

B. Is also responsible for:

1. The management of the headquarters Relocation Assistance Office.

2. Reviewing and approving all incoming claims.

3. Advising the Chief Right of Way Agent and district offices in program matters.

4. Liaison for the Chief Right of Way Agent with other interested offices of government at all levels.

5. Maintenance of official relocation files.

6. Promulgating operating procedures that implement current state law and federal regulations.

7. Other functions as required by the Chief Right of Way Agent.


2-2.6 Appraisal Supervisor

The Appraisal Supervisor:

A. Is responsible for supervising the statewide appraisal function. The occupant reports to the Chief Right of Way Agent through the Acquisition Branch Supervisor.

B. Manages the headquarters appraisal office. Review appraisers statewide are accountable to this supervisor for the review of all appraisals obtained by the Land Management Branch and determination of considerations believed to represent "Just Compensation" to be offered to private property owners for needed right of way.

C. Is responsible for promoting guidelines consistent with current appraisal industry standards and federal regulations for compliance by all appraisers assigned/contracted by the division and request appropriate corrective action or training. Represents the Chief Right of Way Agent in dealing with the public or other offices in appraisal matters.

2-2.7 Title, Condemnation, and Records Supervisor

The Title, Condemnation, and Records Supervisor:

A. Is responsible for supervision of the Title Review and Condemnation functions statewide and the records function within headquarters and reports to the Chief Right of Way Agent. The principal duties of this position are:

1. Directing the review and final processing of all real property acquisition and damage claim files to assure legal sufficiency, and compliance with state laws and departmental regulations; also, final review and processing of surplus property conveyance documents.

2. Directing the preparation of legal descriptions and exhibit maps, and determinations of interested parties for use by the Attorney General Office in eminent domain proceedings.

3. Making recommendations for procedures concerning real property title and document processing functions for approval by higher authority.

4. Providing for the preparation and execution of "Agreements for Aid" between WSDOT and local public agencies.

5. Preparing affidavits and/or testifying in court as the department's expert witness in real estate matters involving titles and legal descriptions.

6. Supervising the land management administrative activities which include:

   a. Indexing and storage of the department's official real property transaction and ownership files.

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b. Maintaining complete and current official files of highway project right of way and sundry site plans.

c. The development and operation of the REAMS computer system.

d. Operation of the ATMS system.

e. Maintenance of land management and equipment inventories.

7. Perform other functions as required by the Chief Right of Way Agent.

2-3 DISTRICT ORGANIZATION

2-3.1 General

A. The principal satellite offices of the Department of Transportation are known as "District Offices".

B. The relationship of the District Land Management offices within the WSDOT is shown in the Organization Handbook published by Administrative Services. The organization of a typical District Land Management Office and the functional titles of their personnel are shown in Figure 2-3.1B.

C. The geographic boundaries of each district are shown in the Organization Handbook. If the limits of a particular highway project extend across the boundaries of a district, the responsibilities are assigned to either of the two districts by a working agreement based on a case evaluation.

D. The locations and mailing addresses of the District Land Management offices are given in Figure 2-3.1C.

E. Land Management project functions are performed in accordance with the operational regulations specified in this manual (M 26-01).

2-3.2 Responsibility and Authority

2-3.2.1 District Administrator

A. As shown in the Organization Handbook, the District Administrator is responsible to the Secretary of Transportation and the Deputy Secretary.

B. The District Administrator has final authority in his district for decisions on highway matters within the framework established by departmental operating regulations in the form of departmental manuals, directives, and instructional letters.

C. The District Administrator exercises administrative and management supervision over the District Land Management Office as follows:

1. Furnishes the facilities and supplies, and provides for the manpower required for the effective accomplishment of the land management program and its related activities.
2. Monitors the District Land Management Office operations in accordance with departmental operating regulations and obtains any needed advice from the Assistant Secretary for Highways (or his designee).

3. Serves as a member of the Administrative Review Board (see Chapter I).

4. Within the scope of departmental operating regulations, may review and approve special considerations contained in transactions (approval authority does not include final acceptance of conveyance documents or payment vouchers) or may make recommendations for further actions. NOTE: This activity may be subdelegated to the District Land Management Supervisor, but may not be further subdelegated.
<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>LOCATION AND MAILING ADDRESS</th>
<th>R/W SUPV.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>9611 S.E. 36th Street&lt;br&gt;Mercer Island, WA 98040</td>
<td>(206) 233-4310&lt;br&gt;SCAN 389-4310</td>
</tr>
<tr>
<td>2</td>
<td>1551 N. Wenatchee Ave.&lt;br&gt;P.O. Box 98&lt;br&gt;Wenatchee, WA 98801</td>
<td>(509) 663-9668&lt;br&gt;SCAN 563-1668</td>
</tr>
<tr>
<td>3</td>
<td>5720 Capitol Blvd.&lt;br&gt;P.O. Box 9327&lt;br&gt;Tumwater, WA 98501</td>
<td>(206) 753-7226&lt;br&gt;SCAN 234-7226</td>
</tr>
<tr>
<td>4</td>
<td>4200 Main Street&lt;br&gt;P.O. Box 1709&lt;br&gt;Vancouver, WA 98668</td>
<td>(206) 696-6348&lt;br&gt;SCAN 476-6348</td>
</tr>
<tr>
<td>5</td>
<td>2809 N. Main St., Union Gap 98903&lt;br&gt;P.O. Box 52&lt;br&gt;Yakima, WA 98907</td>
<td>(509) 575-2555&lt;br&gt;SCAN 558-2555</td>
</tr>
<tr>
<td>6</td>
<td>N. 2414 Mayfair St.&lt;br&gt;Box 5299 North Central Station&lt;br&gt;Spokane, WA 99205</td>
<td>(509) 456-3056&lt;br&gt;SCAN 545-3056</td>
</tr>
</tbody>
</table>

Figure 2-3.1C  District Land Management Offices

### 2-3.2.2 District Land Management Supervisor

The District Land Management Supervisor:

A. Is responsible to the District Administrator for managing the District Land Management Office. He also serves as a member of the District Administrator’s staff.

B. Is responsible to the District Administrator for the following:

1. Supervising and directing the District Land Management Office to assure compliance with the departmental operating regulations by:
   
   a. Managing all District Land Management and Right of Way functions.
   
   b. Providing for technical supervision and in-service training in all program disciplines.
   

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d. Providing reports and systematic records on the anticipated costs of proposed right of way acquisitions and related costs.

e. Assuring the receipt of an appropriate right of way plan and an appropriate Work Order Accounting Plan prior to obligating funds on a project.

f. Monitoring proposed expenditures to assure their necessity and to assure accurate account coding.

g. Reporting on the causes for fund adjustments and the amounts of fund adjustments relative to a Work Order Accounting Plan.

h. Providing for appraisal evidence of the amount of the legally compensable fair market value lost to each separate fee and/or tenant ownership due to acquisition or highway project factors.

i. Performing the "Project Inspection and Parcel Assignment" and ensures that all property and/or property rights required for a project are either acquired or are referred for condemnation.

j. Directing the operation of the relocation assistance program for project displacees.

k. Directing the management of property and/or property rights acquired.

l. Advising and assisting Local Public Agencies (LPAs) in completing their right of way acquisition programs when requested. Reviewing LPA acquisitions as needed to assure compliance with state and federal requirements.

m. Ensuring the accuracy of records, and the systematic input of project/parcel status information into REAMS concurrent with parcel acquisition progress.

2. Coordinating with other staff officers in the district by:

a. Assuring adequate time allocations for right of way activities in the planning for leadtime and scheduling.

b. Providing for Land Management participation in the interdisciplinary team efforts and project field inspections in location and design, as required by the District Administrator.

c. Providing data and/or personnel required to explain the acquisition, relocation assistance and other related programs at public hearings.

d. Assisting in the preparation of right of way plans as required.

e. Taking actions as required in Chapter 6 for the authorization of advance acquisition of projects.
f. Taking actions as required in Chapter 6 for the authorization of hardship acquisition of parcels.

g. Recommending appropriate funding for, and directs the management of, the district's on-going property management inventory.

3. Obtaining technical advice from the Chief Right of Way Agent (or his designee) on the following:

   a. Technical problems relating to any of land management disciplines.

   b. Training of personnel.

   c. Compliance with guidelines on right of way matters.

2-4 ORGANIZATION OF THE ATTORNEY GENERAL DIVISION

2-4.1 General

The relationship of the Attorney General Division to the Department of Transportation is shown in the reference cited in the Organization Handbook published by Administrative Services.

2-4.2 Responsibility and Authority

2-4.2.1 Attorney General

A. The chief legal officer for the State of Washington holds the title of Attorney General. Since this is an elective position, the Attorney General is responsible to the voters of the State of Washington for all legal matters concerning the State.

B. The Office of the Attorney General is staffed with Assistant Attorneys General who are assigned to specific state agencies. Thus, the attorneys who handle highway matters are assigned to the Transportation Division of the Attorney General Office with central offices located in Olympia.

2-4.2.2 Chief Counsel

A. The principal Assistant Attorney General in the office of the Attorney General holds the title of Chief Counsel.

B. The Chief Counsel is responsible to the Attorney General for all activities of his staff, and operates in close coordination with the State Transportation Commission and the Secretary of Transportation.

C. The Chief Counsel assures the close coordination of his staff with the land management staffs in districts and in headquarters.

D. An Assistant Attorney General may be assigned to handle land acquisition matters for each district. If the case load in a particular district
necessitates it, additional Assistant Attorneys General may be assigned to that district.

E. Only in rare instances (e.g., excessive workloads on regular staff) are the services of a private attorney employed. In these instances, the Chief Counsel contracts with an attorney who has competence, interest and familiarity with the applicable procedures. If federal aid participation in the cost of his services is desired by the State, advance FHWA approval must be obtained to employ special counsel.
Tab
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<th>SECTION</th>
<th>PAGE</th>
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<td>WHY WE DO WHAT WE DO</td>
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<td>REVISED CODE OF WASHINGTON</td>
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<td>WASHINGTON ADMINISTRATIVE CODE</td>
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<td>3-5</td>
<td>COUNTY IDENTIFICATION</td>
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<td>3-6</td>
<td>THE RIGHT OF WAY AGENT AS A NOTARY PUBLIC</td>
</tr>
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</table>
CHAPTER 3
GENERAL INFORMATION

3-1 ABBREVIATIONS

The following standard abbreviations may be used within the Land Management Branch without further explanation. In correspondence outside the Land Management Branch, abbreviations are not used. When using an abbreviation other than those given below, the abbreviation is defined by showing it in parentheses at the first opportunity in the text, e.g.: "Right of Way (R/W)."

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AASHTO</td>
<td>American Association of State Highway and Transportation Officials.</td>
</tr>
<tr>
<td>AG</td>
<td>The Attorney General or any of the Assistant Attorneys General.</td>
</tr>
<tr>
<td>AIREA</td>
<td>American Institute of Real Estate Appraisers.</td>
</tr>
<tr>
<td>ALTA</td>
<td>American Land Title Association.</td>
</tr>
<tr>
<td>CS</td>
<td>Control Section.</td>
</tr>
<tr>
<td>DNR</td>
<td>Department of Natural Resources.</td>
</tr>
<tr>
<td>DSS</td>
<td>Decent, Safe and Sanitary.</td>
</tr>
<tr>
<td>DV</td>
<td>Determination of Value</td>
</tr>
<tr>
<td>FA No.</td>
<td>Federal Aid Project Number.</td>
</tr>
<tr>
<td>FHWA</td>
<td>U.S. Department of Transportation, Federal Highway Administration.</td>
</tr>
<tr>
<td>HES</td>
<td>Highway Engineer's Station.</td>
</tr>
<tr>
<td>IR/WA</td>
<td>International Right of Way Association.</td>
</tr>
<tr>
<td>J&amp;D</td>
<td>Judgment and Decree of Appropriation.</td>
</tr>
<tr>
<td>L No.</td>
<td>Location Job Number. An accounting code number with an &quot;L&quot; prefix used in conjunction with Preliminary Engineering.</td>
</tr>
<tr>
<td>OAPU</td>
<td>Order Adjudicating Public Use and Necessity.</td>
</tr>
<tr>
<td>OIPU</td>
<td>Order of Immediate Possession &amp; Use.</td>
</tr>
<tr>
<td>P&amp;U</td>
<td>Possession and Use Agreement.</td>
</tr>
<tr>
<td>PC</td>
<td>Preliminary Commitment for Title Insurance.</td>
</tr>
<tr>
<td>PMS</td>
<td>Property Management System.</td>
</tr>
<tr>
<td>PRM</td>
<td>Partial Release of Mortgage.</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
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<td>--------------</td>
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<tr>
<td>QCD</td>
<td>Quitclaim Deed.</td>
</tr>
<tr>
<td>RCW</td>
<td>Revised Code of Washington</td>
</tr>
<tr>
<td>REAMS</td>
<td>Real Estate Acquisition and Management System.</td>
</tr>
<tr>
<td>R/W</td>
<td>Right of Way.</td>
</tr>
<tr>
<td>RW No.</td>
<td>Right of Way Job Number.</td>
</tr>
<tr>
<td>R/W Project No.</td>
<td>Right of Way Project Number.</td>
</tr>
<tr>
<td>SPC</td>
<td>A supplementary report to PC.</td>
</tr>
<tr>
<td>SR(No.)</td>
<td>State Route (Number).</td>
</tr>
<tr>
<td>SREA</td>
<td>Society of Real Estate Appraisers.</td>
</tr>
<tr>
<td>STIP, P&amp;U</td>
<td>Stipulated Order of Immediate Possession and Use.</td>
</tr>
<tr>
<td>UAB</td>
<td>Urban Arterial Board</td>
</tr>
<tr>
<td>WAC</td>
<td>Washington Administrative Code</td>
</tr>
<tr>
<td>WASHTO</td>
<td>Western Association of State Highway and Transportation Officials.</td>
</tr>
<tr>
<td>WD</td>
<td>Warranty Deed.</td>
</tr>
<tr>
<td>WLTA</td>
<td>Washington Land Title Association</td>
</tr>
<tr>
<td>WSDOT</td>
<td>Washington State Department of Transportation</td>
</tr>
</tbody>
</table>
3-2 GLOSSARY

This glossary defines terms that are used in Land Management activities. Not included are terms that are defined by RCW'S, WAC's, AASHTO, FHWA, or a standard dictionary. In correspondence outside the Land Management Branch, it may be necessary to explain special expressions.

ACQUIRED DWELLING UNIT - The portion of the lands acquired for a public works project that includes all improvements of a residential nature serving the displaced.

ADVERSE POSSESSION - A method of acquiring title to the land of another by actual, open, notorious, continuous, hostile, and exclusive holding of the land for a statutory period. An easement acquired by this method is a "prescriptive easement." Title reports are often silent on adverse possession; therefore, these rights are determined by actual inspection of the property. To be compensable these rights must be perfected by a court action.

APPURTENANCE - Something which is joined or attached to property. When an easement benefits a property, it is an "appurtenance". In order to be an appurtenance, an easement must be necessary for the enjoyment of the lands benefited. A warranty deed conveys the appurtenant easement even if the easement is not mentioned in the deed.

ATTORNEY IN FACT - A fiduciary (agent, representative) appointed by and empowered to act for a principal (a person or a corporation). The Attorney in Fact for a person is empowered by the principal's having executed a Power of Attorney. The Power of Attorney may be either for a general or for a specific purpose. The Attorney in Fact may act only while the principal is alive and of sound mind, when the Power of Attorney permits the act and provided that the Power of Attorney has not been superseded or revoked. The Attorney(s) in Fact of a corporation are those officers of the corporation who are empowered by the corporation's articles of incorporation to act for the corporation.

CALL - A part of a legal description which combines a direction and a distance; e.g., "thence North 00°17' East 506 feet" or "thence along the said easterly boundary to the county road." A series of "calls" locate and enclose a tract in a "metes and bounds" description.

COLOR OF TITLE - An instrument or set of facts that give the appearance of title, but do not prove title.

DATE

CLEAR DATE - A parcel status date generated by REAMS indicating that the parcel is ready to certify as available for construction.

CLOSING ORDER DATE - The date on which the acquisition instrument(s) and appropriate instructions are sent to the title company for processing and recording.

INITIATION OF NEGOTIATIONS, DATE OF - The date on which the State makes the first personal contact with the parcel owner (or his...
designated representative) where price is discussed. This is also the date of the State's initial Firm Offer Letter. The "date of initiation of negotiations" for a project is the earliest date of initiation of negotiations for any parcel (except advance acquisitions) on the project.

PAYMENT AVAILABLE DATE - The estimated date on which the owner receives the State's warrant, or the date of payment into the court or out of an escrow closing.

PROPERTY MANAGEMENT CERTIFIED CLEAR DATE - The date upon which no one other than the State has a valid interest in any remaining improvements on the parcel.

RELOCATION CERTIFIED CLEAR DATE - The date upon which all displacees and/or personalty are off the parcel.

RIGHT OF WAY CHIEF ACQ APPROVAL DATE - The date on which the instrument of conveyance (deed, etc.) is accepted and approved by Secretary of Transportation or his designee.

DEED

BARGAIN AND SALE DEED - A deed in which the grantor makes no warranty. Any title that the grantor has or later acquires passes under this deed to the grantee.

SHERIFF'S DEED - A deed given to the holder of the Sheriff's certificate after expiration of the redemption period. The certificate results from the foreclosure of a lien or mortgage.

TRUST DEED - A deed in which the grantor conveys legal title to property to a trustee and states the authority and conditions binding the trustee in dealing with the property. Similar to a mortgage, this deed secures a debt to real property.

EXCESS RIGHT OF WAY - Property acquired as operating right of way but no longer needed as such. A plan revision mapping the excess R/W area is necessary prior to disposal.

FEDERAL AID PROJECT NUMBER (FA No.) - The Federal Aid Project Number is composed of five elements as shown in the follow example:

I-90-1(11)15

1 = Project Designation indicating the category of Federal funds involved. (In the example, I = Interstate).

90 = Route number (in Washington this number is the same as the State Route number).

1 = Section (generally assigned in consecutive order either from west to east or from south to north).

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Federal approval job number (called the "paren" number). When the "paren" number is blank, a Federal Aid Project is identified. When a "paren" number is given, it indicates that a particular job (e.g., preliminary survey, R/W acquisition etc.) on the Federal Aid Project has been programmed for Federal participation. These numbers are assigned in order as particular jobs are approved for Federal participation.

15 = The number of miles from the beginning of the system to the beginning of the project. These are assigned either from west to east or from south to north. Thus, in this example, the specific on I-90 begins approximately 15 miles east of the beginning of Interstate 90 itself (i.e., 15 miles east of the Connecticut St. Interchange on I-5).

HABITABLE FLOOR SPACE - That space used for sleeping, living, cooking, or dining purposes. Excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connection corridors, laundries and unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

INCOME, GROSS - Income from all sources, including amounts paid directly to the family (or individual) through public assistance agencies or programs.

INNER HARBOR LINE - A line determined by the State Harbor Line Commission which is located and established in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area.

INTERIM USE IMPROVEMENT VALUE

1. The difference, if any, between the value of land under a highest and best use premise if vacant, and the value of the property under its present use as improved.

2. The amount of value contributed by a building which is an underimprovement by reason of a change in the highest and best use of the land on which it is located.

INVENTORY CONTROL NUMBER (IC No.) - An identification number assigned automatically by PMS to each parcel of real property or real property interest owned or controlled by the Department of Transportation and located outside the operating right of way limits when such parcel is entered into the Real Property Inventory.

JUDGMENT AND DECREES OF APPROPRIATION (J&D) - A court order setting over to the State of Washington, for the benefit of the public, the title to personal and/or real property or property rights. The State Constitution requires that just compensation must be paid for the loss of the property. There are three forms of J&D's:

STIPULATED - Following an out-of-court settlement between the condemning agency and the property owner, the court approves the stipulation and the order is entered in accordance with the terms of the stipulation.

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COURT - The order resulting from a non-jury trial in which the judge decides the just compensation.

JURY - The order resulting from a jury trial in which the jury decides the just compensation.

LIFE ESTATE - A freehold; i.e., a real property estate, the duration of which is measured by the life of the person holding it or by the life of some other person.

LOCAL IMPROVEMENT DISTRICT (LID) - A minor governmental subdivision having the power of taxation established to install a public improvement (e.g., water, sewer, etc.) in an area. The improvement is funded by assessments against the parcels real property in the LID's area. These assessments become encumbrances against the respective parcels.

MEANDER LINE - A "meander line" is a surveyed line made up of straight segments which theoretically approximate the line of ordinary high tide or line of ordinary high water to delineate between uplands and tidelands or shorelands.

MORTGAGE BALANCE, FORMER - The amount of the principal balance on the date that the mortgage is paid off by the acquiring agency.

NON-OPERATING PROPERTY (Utility) - Property held by a public or private utility by fee title, easement, lease, etc., and which is not presently integrated as a part of a public service network.

NON-OPERATING PROPERTY (Departmental) - Waste sites, pits, stockpile sites, maintenance sites, drainage and stream easements and other such lands or easements required or used in the support of the construction and/or operation of a vehicular public way.

ONE BUYER-SELLER CONCEPT - An appraisal theory which holds that the total value of the separated remainders of a severed parcel is limited to the amount which one buyer would pay and one seller would accept, under the market value definition, for all of such remainders in a single transaction as distinguished from the sum of the amounts which multiple buyers would pay for the remainders if sold individually.

OPERATING PROPERTY - Property held by a public or private utility by fee title, easement, lease, etc., and which is presently a part of a functioning public service network, e.g., a railroad or power transmission right of way.

ORDER ADJUDICATING PUBLIC USE AND NECESSITY (OAPU) - A court order establishing that the property and/or property rights sought are necessary for use by, and for the benefit of, the general public.

ORDER OF IMMEDIATE POSSESSION AND USE (OIPU) - A court order confirming a written agreement between the condemning agency and the property owner which has been entered in the court and which stipulates that, upon payment of a specific amount of money into the registry of the court, the condemning agency is entitled to take possession of the property, and that the just compensation will be decided by a later court action. Subject to the interests of other interested parties, the property owner is entitled to withdraw these funds from the court. (Also see POSSESSION AND USE AGREEMENT).
OUTER HARBOR LINE - A line determined by the State Harbor Line Commission which is located and established in navigable tidal waters beyond which the State shall never sell or lease any rights whatsoever.

PERSON - For the purposes of the Relocation Assistance program, includes a partnership, company, corporation, or association as well as an individual or family.

POSSESSION AND USE AGREEMENT - A negotiated instrument in which the State and the property owner agree that, upon payment of a certain amount to the property owner, the State is entitled to immediate (or dated) possession and use of the property, and that the final settlement will be decided at a later date.

PROJECT NUMBER

CONSTRUCTION PROJECT NUMBER - A seven-digit alpha-numeric identifier that correlates the construction project with right of way project. The Construction Project Number is the Right of Way Project Number plus an alpha-digit suffix - the "Construction Suffix" in REAMS.

RIGHT OF WAY PROJECT NUMBER - A six-digit alpha-numeric identifier (also called the PUP number) described as follows: the first digit is the District number; the second digit is a number which represents the functional class of the particular highway involved; the third, fourth and fifth digits are numbers which are known as a "planning unit" and are assigned to the highway segment by the District; the sixth alpha digit signifies the portion of that planning unit that is pertinent to the particular parcels (geographically) within the right of way project. Example: 75022B = District 7, Interstate system, SR405 from Wilburton to Factoria.

PROJECT TITLE

CONSTRUCTION PROJECT TITLE - the generic description of the route and termini of a construction project. The specific wording is shown in the title block of the PS&E. Engineering and fiscal considerations often result in a single right of way project being divided into several construction projects. Therefore, it is possible for a parcel to be associated with several construction projects.

RIGHT OF WAY PROJECT TITLE - The generic description of the route and termini of a Right of Way project. The specific wording is shown in the title block of the Right of Way Plan and is exactly duplicated whenever used to identify the project.

SUNDRY SITE PROJECT TITLE - Projects involving sundry sites are identified by the name of the county. A materials site for use on a roadway project is identified by two titles: (1) The Sundry Site Plan name and site number. (2) The words "For use on " followed by the official name of the related right of way project e.g., "Thurston County Sundry Sites, Pit Site No. PS-3-100. For use on SR 5, Lewis County Line to Tumwater."

REAL PROPERTY INVENTORY - An itemized list or catalog of all real property or real property interests owned or controlled by the Department of Transportation and located outside the operating right of way limits.
REAMS STANDARD INPUTS - In order for REAMS to provide accurate information, personal, corporate and agency names or abbreviations must always be input in an unvarying manner. The following standard inputs are mandatory:

Federal:
U. S. A.

Washington State and Its Agencies:
Washington , State of
Washington (DNR) , State of
Washington (Parks) , State of

Counties (example):
King , County of

Cities (example):
Seattle , City of

Corporate:
Burlington Northern , Inc.
Weyerhauser , Inc.

Personal (examples with "et al." or "et ux"): Smith et al. , Sherman
Smith et ux , Sherman

Personal (examples with "Jr" or "Sr"): Smith Jr , Sherman
Smith Sr , Sherman

REDEMPTION - The right given to a judgment debtor (and to certain others) to redeem the property foreclosed within a time period specified by statute. The property is subject to the right of redemption from the time of the Sheriff's sale until the Sheriff's Deed is delivered.

RELICION - The uncovering of land formerly covered by water.

REPLACEMENT HOUSING PAYMENT ("RHP") - Any one or certain combinations of payments authorized to be paid to an eligible displacee to enable such displacee to obtain replacement housing. There are five types of authorized payments, as follows:

INCIDENTAL PURCHASE EXPENSE - The amount necessary to pay or reimburse an eligible displacee for certain actual costs incurred by him incidental to the purchase of an eligible replacement dwelling, including but not limited to recording fees, escrow fees, title insurance premiums, appraisal fees, credit report fees, revenue stamps and transfer taxes. (Does not include prepayment of any expenses.

NOTE: A lender's fee, purchaser's points, loan origination fee or any other debt service charge ("finance charge") is not payable as an incidental purchase expense. Such charge may be payable only as a part of an INCREASED INTEREST PAYMENT or a DOWN PAYMENT ALLOWANCE.

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INCREASED INTEREST PAYMENT - An amount equal to the "present value" of any increased interest expense determined by applying the respective (old and new) interest rates to the lesser remaining balance and the lesser remaining term, respectively. The "present value" is determined on the basis of a discount rate which is the prevailing rate of interest paid on passbook savings account deposits by commercial banks in the general area of the acquired property.

PURCHASE SUPPLEMENT - That amount, in addition to the just compensation paid by the acquiring agency, which is necessary to enable an eligible displacee to purchase an eligible replacement dwelling. Synonymous with "Additive".

RENT SUPPLEMENT - The amount, determined by the displacing agency, necessary to compensate an eligible displacee for the increased cost of leasing or renting an eligible replacement dwelling.

DOWN PAYMENT ALLOWANCE - The amount, determined by the displacing agency, which is necessary to enable an eligible displacee to make a down payment (including incidental purchase expenses) on the purchase of an eligible replacement dwelling.

SATISFACTION OF MORTGAGE - Either an instrument or a marginal notation on the face of the mortgage itself which shows that the mortgage lien has been released.

SHERIFF'S CERTIFICATE OF SALE - The document given to the purchaser at a Sheriff's sale under foreclosure.

SUNDRY SITE - Any site under the authority of the Department which is used (or is intended for use) for pit, quarry, stockpile, common borrow, riprap, maintenance, park 'n' ride, ferry terminals, airports, etc.

SURPLUS PROPERTY - Property not acquired as operating right of way (e.g., pit sites, maintenance sites, uneconomic remnants, etc.) and no longer needed. Disposal proceeds without a plan revision - unless part of the surplus area is to be used as operating right of way.

TAX ROLL - A record of all taxable property which includes the assessed value, the current millage rate and the resulting tax.

TENANCY IN COMMON - A form of coownership of real or personal property by two or more persons, without survivorship and property interests pass by devise and descent to the heirs of a deceased co-owner or as directed by the will of the deceased.

TENANCY, JOINT - A form of coownership of real or personal property by two or more persons permitting the right of survivorship where said property passes to the surviving co-owner(s) without probate proceedings.

THREAD OF A STREAM - The center of the fastest moving part of the main channel of a stream.
TIDE LINES - Each day there are two high tides and two low tides. The two low tides are the "short run out" which is called the LOW TIDE, and the "long run out" which is called the LOWER LOW TIDE. By the same token, the two high tides are call HIGH TIDE and the HIGHER HIGH TIDE. The average of all "low" and "lower low" tides is called the MEAN LOW TIDE. The average of all "lower low" tides is called the MEAN LOWER LOW TIDE. The lowest line on the land reached by a receding tide is called the EXTREME LOW TIDE. Likewise, the MEAN HIGH TIDE is the average of all "high" and "higher high" tides; MEAN HIGHER HIGH TIDE is the average of all "higher high" tides; and EXTREME HIGH TIDE is the highest line on the land reached by an incoming tide.

TRIAL ATTORNEY'S CERTIFICATE - A statement, signed by the Assistant Attorney General who is assigned to the particular case reciting the findings and orders of a court and certifying that the award is due and payable. The certificate is accompanied by a request for a warrant.

TRIAL ATTORNEY'S CLOSING REPORT - A statement, signed by the Assistant Attorney General who is assigned to a particular case, setting forth the circumstances which resulted in the J&D. If the J&D was stipulated, this statement includes the rationale for entering into the stipulation.
3-3 THE ACQUISITION PROCESS

In the early stages, Land Management personnel may be involved in Interdisciplinary Teams to identify ownerships and participate in analyses of various routes.

The first major District Land Management involvement is in preparation of the True Cost Estimate for a project. REAMS produces the True Cost Estimate Reports from field data input by the Districts. Through REAMS, the Districts can update the True cost Estimate for a project whenever engineering changes occur. Using this same data, REAMS produces other reports that are used by the Comptroller's and the Program Development Offices in programming and funding the project.

A separation of functions maintains the integrity of the acquiring agency's transactions. Thus, the appraised, appraisal review and negotiations for a parcel are performed by three different persons. If two or more appraisals are required for a parcel, only one appraisal is assigned to a staff appraiser from the District in which the parcel is located. The additional appraisals are made by either a pool appraiser, a staff appraiser from another District or a fee appraiser. Likewise, the calculation of relocation benefits is done by someone other than the agent who is in direct contact with the displacee. The State's warrants are mailed to the recipients.

Minimal value acquisitions (not greater than $150) are identified by the True Cost Estimate Report and Determinations of Value are prepared from the True Cost Estimate data.

All other parcels are assigned by the District R/W Supervisor (DR/WS) for appraisal. The DR/WS determines the type of appraisal report and whether the appraisal is to be done by staff, pool or fee appraisers. Two independent appraisals are obtained if the True Cost Estimate for the parcel exceeds $100,000. Appraisal data are input to REAMS and upon satisfactory completion, the parcel goes to appraisal review.

The Review Appraiser examines the appraisal to ensure its adequacy and accuracy. The Review Appraiser prepares a Determination of Value (DV) that establishes the just compensation to be paid by the State for the needed property and property rights. The just compensation includes amounts for the value of the lands and improvements acquired for the project, uneconomic remnants, damages, and deductions for special benefits. DV data are input to REAMS; thus, enabling the negotiations process.

When the approved DV is available, the DR/WS assigns the parcel for negotiations. The negotiator works with all parties to achieve a negotiated settlement at just compensation for the needed property and property rights. The negotiator makes the State's offer both orally and in writing to the property owner or his representative. The negotiator keeps a Diary of all contacts and events in such detail that he can attest to the facts therein.

Occupants must be given timely written notice of their right to receive relocation assistance; therefore, the negotiator immediately notifies the DR/WS of the date of initiation of negotiations on the parcel.
Upon conclusion of satisfactory negotiations, the negotiator obtains execution of necessary instruments and vouchers by all interested parties. The parcel file is reviewed in District, REAMS inputs are made, and the file is transmitted to Headquarters.

Occasionally, a minor issue will stand in the way of completing a negotiated settlement. If the appropriate authority (DR/WS, District Administrator or Administrative Review Board) gives its prior approval, an administrative settlement may be arranged. The justification for an administrative settlement is documented in the parcel file, REAMS inputs are made, and the file is transmitted to Headquarters.

After at least three unsuccessful attempts to reach an amicable settlement, it may become necessary to condemn the parcel. The District prepares the file including names and addresses of all interested parties, makes REAMS inputs and transmits the file to Headquarters.

Upon arrival in Headquarters, the parcel file is subjected to review and pre-audit in the Land Management Branch. When all is in order, a negotiated or administrative settlement is approved by the Chief Right of Way Agent (CR/WA), inputs are made to REAMS, and the Real Property Vouchers are submitted to the Comptroller's Office for payment.

When the District submits a parcel for condemnation, the file is reviewed by the Land Management Branch. If two or more parcels are to be condemned on a project, they may be combined into a single "blanket condemnation" proceeding. The Land Management Branch assembles the condemnation package, makes REAMS inputs and transmits the files to the Office of the Attorney General (AG). Upon receipt, the AG becomes solely responsible for the eminent domain proceeding; however, he will often call upon both District and Headquarters personnel for assistance, concurrences, etc. The AG makes REAMS inputs that indicate the status and disposition of the case.

Whether by mailing of the State's warrant to the property owner, closure in escrow, or by payment to the registry of the court, the State's payment becomes available to the property owner. Title passes when the money changes hands. The Land Management Branch inputs the "Payment Available Date" into REAMS. The "Payment Available Date" triggers the DR/WS to perform property management and relocation assistance functions for the acquired parcel.

District property management functions include such activities as rental agreements with occupants, salvage and removal of improvements, and maintenance to avoid the creation of a public nuisance. When no one other than the State has a valid interest in any improvements on the acquired parcel, District Land Management inputs the "P/M Certified Clear Date" to REAMS.

District relocation activities are those related to moving all displacees and their personality from the acquired parcel. Eligible occupants are given written notices of the maximum amounts of their replacement housing payments. Eligible occupants are given written notice that the acquiring agency has acquired the property. When an eligible occupant moves from the acquired parcel, the DR/WS inputs the "Vacated Date" to REAMS. When this has been done for the last occupant, REAMS will generate the "Relo Certified Clear Date" for the parcel.
The final step in the L/M process is to certify the project as clear for construction. This must be done prior to the Contract Ad Date. When both the "P/M Certified Clear Date" and the "Relo Certified Clear Date" have arrived, REAMS will generate the parcel's "Clear Date." REAMS produce reports on the status of parcels. When REAMS shows that all parcels on a project have reached their "Clear Date," the project can be certified to the FHWA as clear for construction. This is done by the normal District and Headquarters processes. Often a project will be certified with exceptions. In every case, the exceptions must be cleared before actual construction can begin.
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3-4 WHY WE DO WHAT WE DO

3-4.1 Revised Code of Washington

Chapters 8.25 and 8.26 RCW are the State laws that control the acquisition process. The intent of these laws is: to assure fair and equitable treatment of displacees, and to encourage and expedite acquisitions by negotiations. These laws require that Land Management personnel know and do many things:

A. Appraisal.

1. The real property must be appraised. This includes the land and all improvements on or adversely affected by the acquisition.

2. The property owner must be given an opportunity to accompany at least one of the acquiring agency's appraisers during his inspection of the property.

3. Any increase or decrease in value due to the proposed project is ignored in appraising the fair market value of the property.

4. Physical deterioration that is within the control of the owner is not disregarded.

5. Uneconomic remnants are identified and valued.

6. Since the improvements may belong to a tenant, improvements are valued at both their contribution to the fair market value of the real property and at their fair market value for removal from the real property. This is done because the tenant will be offered the greater of these values for tenant-owned improvements.

7. In his report, the appraiser itemizes his opinion of the fair market value of the land, improvements and uneconomic remnants; and damages and special benefits to the remainder.

B. Appraisal Review.

1. The acquiring agency establishes the just compensation. The just compensation is not less than the agency's approved appraisal of the fair market value of the property.

2. The written statement of the just compensation itemizes the amounts for the land, improvements, damages, special benefits, and uneconomic remnants. Special benefits are a deduction.

3. The amount shown for tenant-owned improvements is the greater of their contribution to the fair market value of the real property or their fair market value for removal from the real property.

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Change 15
July 1982
C. Negotiations.

1. The date of initiation of negotiations cannot precede the date of establishing the just compensation. For WSDOT this means that an approved DV must be available before negotiations can begin.

2. Every reasonable effort is made to acquire real property expeditiously and by negotiations.

3. No coercive action is taken to compel agreement on the price.

4. The acquiring agency promptly offers to acquire the property for the full amount of the just compensation.

5. The acquiring agency provides the property owner with a written statement of the just compensation. This statement itemizes the amounts for the land, improvements and damages, and deductions for special benefits.

6. The acquiring agency offers to purchase any uneconomic remnant.

7. The acquiring agency pays an evaluation allowance (not exceeding $200 per parcel) to defray the actual and reasonable costs of interested parties' evaluation of the agency's offer.

8. The acquiring agency pays the property owner's fair and reasonable expenses for:
   a. Recording fees, transfer taxes, and other expenses incidental to conveying real property.
   b. Penalties for full or partial prepayment of any preexisting mortgage.
   c. The prorata portion of any prepaid real estate taxes that are allocable to the earlier of the date of vesting title in the acquiring agency or the date of the agency's acquiring possession of the property.

9. The owner is not required to surrender possession of real property before the payment is made available to him.

10. Construction is scheduled so that no occupant is required to move without at least 90 days written notice of the vacation date.

11. No occupant is required to move from his dwelling until the acquiring agency has determined the rents, prices and availability of qualified replacement housing.

12. Temporary occupancy after acquisition is by rental agreement at economic rent.

Change 14
June 1982
13. If it becomes necessary to condemn the property, the acquiring agency files the proceedings. The property owner is not forced to file an inverse condemnation.

14. If the tenant owns the improvements:
   a. Payment for the improvements may not result in duplicate payments.
   b. The land owner must disclaim all interest in tenant-owned improvements.
   c. The tenant is offered the greater of the improvement's contribution to the fair market value of the property or the fair market value of the improvements for removal from the real property.
   d. In accepting the offer, the tenant must transfer all rights, title and interest in the improvements to the acquiring agency.
   e. The tenant is not obligated to accept the acquiring agency's offer.

D. Property Management.

After payment becomes available to the owner, continued occupancy is through execution of a rental agreement at economic rent.

E. Relocation Assistance.

1. The relocation assistance advisory program:
   a. Determines the need for relocation assistance by displacees.
   b. Provides current information on availability, prices and rentals of DSS housing and commercial properties.
   c. Assists a displaced resident, business or farm in obtaining and becoming established in a new location.
   d. Provides other advisory services to minimize hardships on displacees.
   e. Coordinates relocation activities with other agencies to assure the compatibility of the relocation concepts, aims, objectives, actual relocations and land use plans.

2. The acquiring agency must assure that:
   a. Relocation assistance and payments are provided fairly, reasonably and uniformly.
   b. Eligible displacees are paid promptly, or, in hardship cases, in advance.
c. Prior to displacement, there are enough qualified dwellings available to fill the needs of all displacees.

d. Any aggrieved party may have his case reviewed by the executive head of the acquiring agency.

3. Every eligible displacee receives his choice of one of the following moving expense payments:

   a. Actual and reasonable expenses for:

      (1) Moving himself, his family, business, farm or other personality.

      (2) Direct losses of tangible personality resulting from moving or discontinuing a business or farm.

      (3) Searching for a suitable replacement site for the business or farm.

   b. An in-lieu moving expense payment per schedule established by WSDOT (not exceeding $300), plus a dislocation allowance of $200.

   c. A business or farm may receive a payment equal to its average annual net income over the last two tax years prior to displacement (but not less than $2,500 nor more than $10,000). A business cannot receive this payment unless:

      (1) It cannot be relocated without a substantial loss of patronage, and

      (2) The acquired site is the sole location of the business.

4. The occupant of a dwelling receives a dislocation and relocation expense payment:

   a. If the displacee has been the owner-occupant for not less than 180 days prior to the date of initiation of negotiations, and if the displacee buys and occupies suitable housing not later than one year from the later of the date on which he receives final payment or the date he moves from the acquired property, the displacee receives a payment (not exceeding $15,000) for:

      (1) Purchase price supplement as determined by WSDOT standards.

      (2) Increased interest expense.

      (3) Title, recording, and certain other closing costs for the replacement housing.
b. If the displacee does not qualify under 4.1., above, but has been the legal occupant for not less than 90 days prior to the date of initiation of negotiations, the displacee receives a payment (not exceeding $4,000) for either:

(1) The amount necessary to lease or rent a comparable suitable dwelling for a period not exceeding four years, or

(2) The amount necessary for a down payment on a comparable suitable dwelling; however, if the down payment exceeds $2,000, the displacee must match dollar-for-dollar the amount in excess of $2,000.

5. The payments in 3 and 4, above, are not income for tax purposes, social security eligibility, or welfare eligibility -- except that the rent supplement payment may be considered in determining the shelter allowance in the welfare program.

6. If sufficient comparable suitable rentals or sale housing is unavailable, the acquiring agency must provide housing by:

a. Entering into an agreement with any Federal agency to obtain funds or other needed assistance.

b. Moving housing to its surplus lands.

c. Rehabilitating existing housing.

3-4.2 Washington Administrative Code

Chapter 365-24 WAC contains the administrative regulations pertaining to the acquisition process. The State Planning and Community Affairs Agency promulgates these regulations to assure implementation of the RCW's. Their principal impact is on the relocation assistance program. Pertinent sections are summarized in the following paragraphs:

WAC 365-24-010(3) These regulations establish minimums. In order to secure Federal funding, the acquiring agency may comply with the more stringent requirements of Chapter 8.26 RCW including making payments in excess of those herein.

WAC 365-24-010(4) Whenever the displacement of a business or farm necessitates that the owner move from his dwelling, the owner is eligible for relocation expenses for the dwelling. Whenever business and dwelling units are on a property a portion of which is acquired, all occupants are eligible for moving expenses if they are forced to move regardless of whether the dwelling units are in the acquisition.

WAC 365-24-030(1)(a) The acquiring agency provides to all occupants a written statement including:

1. The date of initiation of negotiations with the property owner.
2. The occupant may lose his eligibility for relocation assistance and
   benefits if he moves or makes a financial commitment for replacement
   housing before receiving the agency's written notice to vacate; or
   otherwise fails to meet legal requirements.

3. The acquiring agency's plans are subject to change and cancellation
   until the acquisition is completed.

4. No occupant should move or make financial commitments for
   replacement housing until he has received a written notice to vacate
   and a final determination of the benefits for which he is eligible.

5. The location of his nearest relocation assistance office.

6. Procedure for administrative review.

WAC 365-24-030(1)(b) The acquiring agency gives each occupant a written notice
   to vacate - such notices to be delivered personally or sent by certified or
   registered mail.

WAC 365-24-030(1)(c) Displaces shall be paid promptly - in hardship cases, they
   may be paid in advance.

WAC 365-24-030(1)(d) Applications for benefits must be made within 18 months of
   the date the displacee moves or the date the acquiring agency makes the final
   payment for the real property - whichever is later.

WAC 365-24-050(1) Information is made available to the public at the earliest
   possible date concerning the acquiring agency's relocation program, the assurances
   of comparable qualified replacement housing, eligibility requirements and appeals
   procedures.

WAC 365-24-050(2) At the displacee's request, the acquiring agency provides a
   written statement to any interested party regarding the displacee's eligibility and
   the requirements that must be met.

WAC 365-24-110(6) A displacee is anyone who is a lawful occupant of a real
   property that is acquired in whole or in part by the acquiring agency; provided that
   the displacee was a lawful occupant on the date of initiation of negotiations or on
   the date of written notice of intent to acquire or to vacate, whichever is earlier.

WAC 365-24-210(1) The acquiring agency cannot proceed with a project until it has
   received approval (of FHWA or Director of OCD) of its assurance that sufficient
   DSS housing will be available to every displacee. Such housing must be:


   2. In areas not less desirable in regard to public utilities and commercial
      facilities.

   3. At rents or prices within the means of the displacee.

   4. Is decent, safe, and sanitary (DSS).
5. Is comparable to the displacee's dwelling (i.e., the acquisition).

6. Are equal in number to, and available to the displacee.

7. Reasonably accessible to the displacee's place of employment.

WAC 365-24-210(2) A DSS dwelling is one that is sound, clean and weathertight and is either:

1. A housekeeping unit containing:
   a. A kitchen with fully operating sink, a cooking stove or connections for same.
   b. A separate complete bathroom.
   c. Hot and cold potable running water in both the kitchen and bathroom.
   d. Adequate and safe electrical system.
   e. Heat is required by climate and local codes

2. A non-housekeeping unit that meets local codes for a boarding house, hotel or other congregate living facility.

WAC 365-24-210(3) A comparable dwelling unit is:

1. Functionally equivalent and substantially the same as the acquired dwelling.

2. Adequate in size to meet the displacee's needs - but it may be larger to contain the same number of rooms or the equivalent square footage of the acquisition.

3. Located in an area not generally less desirable than the acquisition.

4. Open to all persons with respect to the Civil Rights Act.

5. Reasonably accessible to the displacee's place of work.

6. Within the means of the displacee.

7. Available to the displacee on the market.

8. A legally-fixed mobile home.

9. If comparable dwelling is unavailable, exceeds these requirements.

WAC 365-24-420 The allowable moving expenses for a displacee are:

1. Transportation of displacee and his personality to the relocation site not to exceed 50 miles.
2. Packing, unpacking, crating and uncrating of personalty.
3. Advertising for packing, crating and transportation.
4. Storage of personalty for up to 12 months.
5. Insurance of personalty while in storage or transit.
6. Uninsured property that is lost, stolen or damaged in the moving process.
7. Provided that the displacee agrees in writing that such property is personalty, fees for removal, reinstallation, reestablishment of, and reconnection of utilities for, machinery, equipment, appliances, etc.

Note: If such equipment is personalty, neither the displacee nor the property owner can be paid for it.
8. Other reasonable expenses.

WAC 365-24-430(1) When the displacee moves himself, the payment does not exceed the estimated cost to have moved him commercially.

WAC 365-24-430(2) When personalty that is used in a business or farm is not moved, but is sold and promptly replaced, the reimbursement does not exceed the lesser of:

1. The replacement cost and costs of selling the property - proceeds from the sale, or
2. The estimated cost of moving.

WAC 365-24-430(3) When a business or farm includes personalty of low value and high bulk (e.g., junk yards, stockpiled sand, gravel, minerals, metals), the cost of moving the personalty may be high in relation to its value. In such cases, the payment is the difference between the amount which would have been received for the personalty on liquidation and the replacement cost of the personalty on the open market. The cost of removal of the personalty is not an offsetting charge against the other payments to the displacee.

WAC 365-24-430(4) When personalty that is used in a business or farm is to be abandoned, the payment is the lower of: the fair market value if left in its location, or the estimated cost of moving 50 miles. To be eligible, the displacee must submit a statement of his efforts to sell or otherwise dispose of the personalty. The cost of removal of the personalty is not an offsetting charge against other payments to the displacee.

WAC 365-24-440 The following are nonallowable expenses:

1. Additional expenses of living in the new location.
2. Cost of moving improvements.
3. Improvements to the replacement site (except last resort housing).
4. Interest on loans to cover moving expenses.
5. Loss of good will.
7. Loss of trained employees.
8. Personal injury.
9. Costs of preparing applications for moving and other expenses.
10. Costs of searching for a replacement dwelling.
11. Others as determined by the acquiring agency.

WAC 365-24-450 & 460 Expenses (not exceeding $500) incurred in searching for a replacement business or farm are allowable, including:

1. Actual travel costs.
2. Meals and lodging.
3. Time spent in searching at the rate of the searcher's salary or earnings, but not exceeding $10.00/hour.
4. Necessary broker, real estate or other professional fees (at the discretion of the acquiring agency).

WAC 365-24-520(1) The acquiring agency establishes criteria for determining that an activity is a bona fide business.

WAC 365-24-520(3) A business can receive the in-lieu moving expense payment only if:

1. The acquired site is the sole location of the business, and
2. The business cannot be relocated without substantial loss of patronage. The determination of loss of existing patronage is based on:
   a. The type of business conducted.
   b. The nature of the clientele.
   c. The relative importance of the present locations.

With respect to a non-profit organization (NPO) "existing patronage" includes the persons, community and clientele served by the NPO.

WAC 365-24-530 The displacee from a bona fide farm operation is eligible for the in-lieu moving expense payment if the acquisition results in a remainder that cannot meet the requirements for a farm operation.
WAC 365-24-540  The in-lieu moving payment is based on the "average annual net earnings" of a business or farm over a two-year period. The "average annual net earnings" is one-half of the net earning before federal, state or local income taxes and includes compensation paid to the owner, spouse or dependents.

WAC 365-24-620  The replacement housing payment cannot exceed $15,000 - and consists of: (1) Replacement Housing differential, (2) increased interest expense, and (3) incidental expenses.

1. The replacement housing differential is the difference between the acquisition price and the price of a comparable replacement dwelling.

2. The increased interest expense is the present worth of the difference between the interest (and other debt service costs) on the outstanding balance of the existing mortgage on the date of acquisition and the interest on the same portion of the replacement mortgage. The mortgage on the acquired property must have been a valid lien for not less than 180 days prior to the date of initiation of negotiations on the parcel. The present worth is calculated by using a discount rate that is equal to the average interest rate on the savings deposits in commercial banks in the replacement area. Points paid by the purchaser are included in the interest differential calculation.

3. The incidental expense includes all actual closing costs, but no part of the finance charges. Typical allowable expenses include: title search, title policies, abstracts, recording fees, conveyance fees, notary fees, appraisal fees, structural soundness certification, credit reports, escrow fees, revenue stamps, etc.

WAC 365-24-730  The rent supplement is the difference between the amount of 4 years rent for the comparable rental and 48 times the average actual (or economic) monthly rental of the acquired dwelling. The average is taken for the three months preceding the date of initiation of negotiations for the parcel. This may be expressed by the formula:

\[ RS = \frac{R1 - 48(R2+R3+R4)}{3} \]

\[ = R1 - 16(R2+R3+R4) \]

where:
- \( RS \) = Rental Supplement
- \( R1 \) = Total rent of replacement dwelling for 4 years
- \( R2+R3+R4 \) = Actual (or economic) monthly rental paid on the acquired dwelling for 3 months preceding date of initiation of negotiations.
WAC 365-24-810 thru 884  Any party who is aggrieved by an eligibility determination, method of determination or the amount of a payment may request a review of the grievance by submitting a written notice of appeal to the Secretary of Transportation. The appeal must be filed within 30 days of the aggrieved party's receiving written notice of the Department's rejection of his claim. The notice of appeal should contain the facts and reasons why the aggrieved party believes he has been aggrieved, the project name, the parcel number, the signature and address of the aggrieved party or his attorney. The aggrieved party is given at least 20 days notice of the date his appeal will be reviewed, and is allowed to submit evidence, etc.
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3-5 COUNTY IDENTIFICATION

The counties of the State of Washington have been given both letter and number designations. Examples of the use of these identifiers are as follows:

A. The county number forms the first two digits of the Control Section (CS) number; e.g., CS 0101 identifies: SR 90, Grant Co, Line to Jct. SR 395 S. of Ritzville, SR MP 191.89 to 220.49, Interstate, in Adams County.

B. The county letter is used in the Real Property Inventory as a part of the Inventory Control Number; e.g., 3-J -00001 identifies the first item in District 3's real property inventory for Thurston County.

C. The county letter is used in the identification of certain sundry sites; e.g., PS-P-123 identifies a pitsite in Whitman County. The three numeric digits are a serial number assigned by the Department to the site.
THE RIGHT OF WAY AGENT AS A NOTARY PUBLIC

If the Right of Way Agent's duties require him to be a Notary Public, the State will secure the necessary commission and seal. The R/W Agent notifies the District Right of Way Supervisor sufficiently in advance of the expiration date of his seal to allow the State time to have his seal renewed before it expires.

The jurisdiction of the R/W Agent as a Notary Public extends to all counties of the State of Washington.

The opening statement of each certificate of acknowledgment is "STATE OF WASHINGTON, County of _____________," which county is the county in which the acknowledgment is taken.

Beneath the signature of the Notary Public is a space provided for entry of the name of the city, town, or rural community having a post office, which is the place of residence of the Notary Public. Should the Notary Public change his place of residence, he must immediately notify the:

Department of Licensing  
Highways-Licenses Building, PB-01  
Olympia, Washington 98504  

Attention: Professional Licensing - Notary Public

Their telephone number is SCAN 234-3836.

Licensing will require the Notary's name, his former address, his new address and his seal number.

Note that the Notary's seal is invalid from the time he has changed his place of residence until the time his new place of residence is on file; therefore, it is incumbent upon the R/W Agent to make the above notification promptly.

Usually, by the time the transaction has proceeded to the point of the execution of any instruments, the R/W Agent will know the persons signing the instruments sufficiently well to avoid perjuring himself by stating "...to me known to be the individuals....". Should the Notary not know any person signing an instrument, he must require proof of identity. If the R/W Agent is not satisfied with the identity of a person, he must refuse to take the acknowledgment and seek the services of another qualified officer who does know the person in question. In 84 Wn. 2d 360 (1974) the State Supreme Court held that:

"The Notaries were responsible for reasonable care in learning the identity of the persons signing the documents. Although a Notary does not insure the identity of a person signing, when a signature proves forged the Notary has the burden of proof that a proper standard of care was used."
The Notary must be satisfied that each person signing an instrument is sane and knows the consequences of his act.

Various sizes of gold foil disks are available at stationery stores. If the Notary elects to use these disks, he must take care that none of the wording of an instrument and that no part of the signatures are covered.

A method of causing the imprint of the seal to reproduce more clearly is to place a sheet of the pencil carbon paper from the State snap-out form vouchers face down on the instrument and impress the seal through it. A rubber stamp may also be used as a notary seal.
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### Appraisal
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Chapter 4
Appraisal

This chapter outlines typical appraisal tasks and responsibilities. The WSDOT Appraisal Guide, Appendix 4-1, provides detailed technical requirements for appraisals; Appendix 4-2 shows detailed examples of cost estimates.

4-1 Policy

The Director, Real Estate Services (DRES) establishes WSDOT appraisal policy. This policy assures compliance with State and Federal laws and regulations governing real property acquisition under eminent domain.

4-2 Estimates

4-2.1 Estimates, General

Upon request, the District Real Estate Services Manager (District RESM) or Senior Appraiser will assign staff appraisers to make various types of right of way estimates. Examples are: location-design estimates, and True Cost Estimates. These are estimates of expected acquisition costs which also can include a recognition of the proposed project effects upon:

A. Regional and community development.
B. Lands belonging to public entities, railroads, recreation areas, wildlife and waterfowl refuges, and aquatic lands.
C. Historic sites.
D. Existing public facilities and services.
E. Displacement of persons, businesses, farms, etc.
F. Tenant-owned improvements, trade fixtures, and/or specialty items.
G. Potential multiple uses of highway right of way.
H. Wells, septic systems, irrigation systems, and drainage systems.

Labor and equipment expenses for making these estimates are generally charged to the project location (L-job) accounts.

4-2.2 Location-Design Estimates

A location design estimate is commonly referred to as a “reconnaissance estimate.” It is written in IDC format by the appraiser with supporting data attached as necessary. An example is found in Appendix 4-2.2.

4-2.3 True Cost Estimates

A True Cost Estimate (TCE) is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs. It is completed by an appraiser, an appraisal reviewer, and a relocation expert. The TCE is entered into the Real Estate Acquisition and Management System (REAMS) which produces a summary report. Through REAMS, the
district can update the TCE as needed. The TCE is used by the Program Management Engineer and the Comptroller to obtain authorization and funding for the project.

Procedures

A. The TCE is based on current market data, project information, and right of way plans. As a minimum, it is comprised of:

1. A parcel-by-parcel list of right of way costs (just compensation and administrative costs) reported on the Right of Way Estimate (WSDOT Form 261-006).

2. A total project right of way cost summary reported on the Right of Way Project Cost Breakdown and Summary (WSDOT Form 261-006A).

3. A Neighborhood Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its affect on parcels, and any changes in the aforementioned likely to be caused by the project.

4. The TCE can be transmitted in “hard copy” form per A-1 and A-2 above, or it can be “computer generated” through the REAMS system. For an example of the former, see Appendix 4-2.3.

B. The TCE can, in certain circumstances, also contain the following:

1. An Estimate of Expenditure Demand (WSDOT Form 133-120) which allocates the total funds over an expected time period.

2. A narrative before and after analysis of each parcel describing pertinent market data and acquisition/project effects.

3. A relocation plan completed by the relocation expert (see Chapter 12, Relocation Assistance).

4. Comparable sales or other market data. These should be included if the True Cost will be used as “value finding evidence” (see Appendix 4-1, page 11-8).

C. The TCE is transmitted by a cover memorandum containing a brief explanation of the material and a request for funding action. Copies of each TCE are sent to the District Administrator, DRES, Priority Programming Engineer, and Finance Officer.

D. Subsequent to funding action (assignment of a right of way number), any supplemental requests for significant fund changes or additions/deletions of parcels are submitted as separate True Costs per “A” above.

4-3 Appraisals

This section outlines typical appraisal administration and responsibilities.

4-3.1 Appraisals, Authorization

WSDOT may authorize acquisition appraisals after the following:

A. Normal Approval

1. The corridor hearing has been held.

2. The final environmental impact statement (EIS), when required, has been accepted and the 30-day comment period has expired.
3 The Right of Way Plan showing the parcels to be appraised has been submitted.

4. The "Work Order Authorization" has established the right of way number.

B. Special Approval

Early appraisals may be completed on a parcel-by-parcel basis if "Hardship Acquisition" or "Protective Buying" has been authorized.

4-3.2 Number of Appraisals

A. Acquisition Appraisals

1. Each parcel to be acquired by negotiation, with an estimated just compensation in excess of $2,500 on the True Cost, must have at least one appraisal. Additional appraisals may be required due to the complexity of the appraisal problem. It is the responsibility of the Review Appraiser to determine if more than one appraisal will be required.

2. Each uncomplicated parcel to be acquired by negotiation, with an estimated just compensation of $2,500 or less on the True Cost, can be directly reviewed using the True Cost as the "value finding evidence" in lieu of an appraisal (see Appendix 4-1, page 11-3). It is the responsibility of the Review Appraiser to determine whether an appraisal is necessary due to complexity.

3. Each parcel to be acquired by donation need not have an appraisal if the donor waives it.

4. Regardless of estimated just compensation amount, each parcel submitted to headquarters for condemnation must have at least one appraisal that is a "before and after" narrative appraisal as defined in Appendix 4-1, tabs C and D.

B. Surplus Property Appraisals

1. All surplus real property and/or real property rights, obviously in excess of $500 value, must have at least one appraisal prior to disposal by sale or trade (see Appendix 4-1, Section B). The Review Appraiser may require additional appraisals due to the complexity of the appraisal problem.

2. All surplus real property and/or real property rights obviously worth $500 or less can be reported as such using a memorandum form. This memorandum must be co-signed by a Review Appraiser.

3. WSDOT-owned real property and/or real property rights to be rented or leased may have fair market rent supported by location design type estimates with supporting data attached as necessary. It is the responsibility of the Appraisal/Program Manager to determine whether the appraisal problem complexity requires a formal appraisal in such instances.

4-3.3 Appraisal Assignment

The District RESM or Senior Appraiser assigns/contracts for appraisal and specialist reports. Staff appraiser assignments are made using the Staff Appraiser Assignment (WSDOT 261-007). Fee Appraisers and Specialists are contracted using the Personal Services Contract (WSDOT 260-004). For personal service contracting procedures and administration, see Chapter 1, Section 22.

A. The assigned appraisal form must match the complexity of the appraisal problem. See Appendix 4-1, page 11-3.

B. Appraisal assignment/contract data is entered into REAMS.

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C. Qualified state staff, when available, must be utilized before private consultants can be contracted.

D. The Senior Appraiser requests a Determination of Value (DV) be written by the Review Appraiser for all parcels having $2,500 or less just compensation when the TCE contains "value finding evidence" and the right of way number has been established.

4-3.4 Distribution of Appraisal Reports

A. Acquisition Appraisals

1. Prior to review, acquisition appraisal reports are submitted to the Senior Appraiser in triplicate, with a fourth copy retained by the appraiser. The Senior Appraiser:
   a. Stamps the original "Headquarters" and transmits it to Headquarters Real Estate Services;
   b. Stamps one copy "Review" and transmits it to the Review Appraiser; and
   c. Stamps one copy "District" and transmits it to the district file.

2. Upon completion of the review function by the Review Appraiser, the Senior Appraiser distributes as follows:
   a. The "Review" appraisal copy with an attached DV copy is transmitted to the District Negotiations Supervisor;
   b. One copy of the DV is transmitted to the District Property Management Section;
   c. One copy of the DV is transmitted to the District Relocation Section; and
   d. One copy of the DV is transmitted to the district file.

B. Surplus Property Appraisals

Unless otherwise specified in the appraisal assignment, only one appraisal of a surplus property is submitted, with a second copy retained by the appraiser. The Senior Appraiser stamps the original HEADQUARTERS and transmits it to the Review Appraiser.

C. WSDOT appraisal reports are confidential and are not made available to nonemployees unless directed by the DRES or the State Attorney General.

4-4 Special Appraisal Situations

4-4.1 Plan Revisions

When a Right of Way Plan revision occurs, a new appraisal and/or new DV may be required.

A. If the parcel has not been acquired, the Senior Appraiser contacts the Review Appraiser to determine if a new or revised parcel appraisal is required.

1. If a new or revised appraisal is not required, the Review Appraiser will write a new DV based on the new map and the previous appraisal. (See Chapter 5, Review.)

2. If a new or revised appraisal is required by the Review Appraiser, the Senior Appraiser assigns and/or contracts accordingly.
B. If a plan change requires the acquisition of additional rights from a parcel that the department has already completed an acquisition on, then a new parcel number, TCE, and appraisal are required.

4-4.2 Damage Claims

The Senior Appraiser assigns or contracts the appraisal of damage claims (e.g., inverse condemnations) upon authorization by the DRES.

4-4.3 Advertising Signs

A. Tenant-owned signs (realty) in the acquisition are appraised as tenant-owned improvements. The appraisal shall report the following:

1. The contribution value of the sign.
2. The orderly liquidation (salvage) value of the sign.
3. The cost to move the sign onto the remainder (if a partial taking).

B. Fee-owner signs (realty) located in the acquisition are evaluated as fixtures. The appraisal shall report the contribution value of the sign and the cost to move the sign onto the remainder (if a partial taking).

C. Signs that are located outside the right of way are appraised only as authorized by the DRES.

4-4.4 Other Types of Appraisal Problems

A. The following are examples of when the DRES should be consulted for direction:

1. Railroad properties.
2. Properties owned by a public agency.
3. Aquatic lands or wetlands.
4. City street rights of way.

B. Asbestos

When buildings to be totally or partially acquired are suspected to contain asbestos, the Senior Appraiser:

1. Requests that the District Project Engineer contract for asbestos sampling and testing of such buildings per these priorities:
   a. High Priority—All buildings designed/constructed for human occupancy/use, except single family dwellings. Asbestos sampling/testing reports on these buildings are provided to the parcel appraiser for consideration during the appraisal process (see also 2 below).
   b. Low Priority—All single family residences. Asbestos sampling/testing reports on these need not be considered by the parcel appraiser during the appraisal process unless the typical market would do so.

2. Positive asbestos sampling/testing reports on High Priority buildings require the Senior Appraiser to contract a specialist (Industrial Hygienist) for an estimate of the cost of mitigation. The mitigation estimates needed are:
a. For affected buildings lying totally within the right of way or likely to be totally taken, the costs needed are:

   (1) Removal of the asbestos from the entire building;

   (2) Encapsulation of the asbestos for the entire building.

b. For affected buildings lying partially within the right of way and which will likely be rehabilitated in place, the costs needed are:

   (1) Removal of asbestos that will be disturbed during rehabilitation;

   (2) Encapsulation of asbestos that will be disturbed during rehabilitation.

3. Positive asbestos sampling/testing reports on Low Priority buildings do not require mitigation cost estimates. However, such positive reports are to be provided to the District Negotiation Section and Property Management Section prior to the occurrence of any of the following:

   a. Offering owner the option to retain the building for salvage;

   b. Rental of the building to the owner, occupant, or any tenant after acquisition;

   c. Any sale that includes ownership of the building;

   d. Demolition of the building.

4. The Senior Appraiser assures that copies of all positive asbestos sampling/testing reports are available to the Project Engineer.

C. Toxic/Hazardous Waste Situations

The Senior Appraiser consults the project environmental impact statement and/or the project design report for information. If toxic/hazardous waste is present in the project alignment, it will have been tested and mitigation costs estimated prior to the TCE. The Senior Appraiser assures that such positive testing and mitigation cost estimates are forwarded to the parcel appraisers for consideration during the True Cost and/or appraisal processes.

1. Lacking definite information on hazardous/toxic waste contamination from the Project Design report or the EIS, the appraiser is vigilant during field inspection of parcels or owner contacts for indications of possible contamination such as:

   a. Evidence of spillage;

   b. Odd odors or soil colors;

   c. Evidence of burial;

   d. Discolored, missing, or dead vegetation;

   e. Dead animals or birds; and

   f. Suspicious drums, tanks, or containers.

2. If the appraiser suspects the presence of hazardous/toxic waste on a parcel, the following actions are taken:
a. Appraisal and all other right of way activities involving the suspect parcel are immediately suspended;

b. The appraiser reports suspicions in writing through the District Senior Appraiser to the District Environmental Unit; and

c. Upon conclusion of the district environmental unit’s study:
   (1) If no waste is found, right of way activities can resume; or
   (2) If waste is found, the cleanup costs reported by the environmental unit are considered by the appraiser during resumption of the appraisal process.

4-5 Responsibilities

4-5.1 District Real Estate Services Manager (District RESM) (Senior Appraiser)

The Senior Appraiser’s responsibilities include the following:

A. Obtain estimates, specialist’s reports, and appraisals in advance of negotiations by making staff assignments or contracting private consultants.

B. Provide the appraiser with: identification of real property and fixtures to be appraised; engineering data; specialist reports; information from the environmental impact statement (EIS) and/or project design report regarding hazardous/toxic waste and/or asbestos.

C. Update projects, parcels, True Cost Estimates, appraisal assignments, and appraisal completions in the REAMS computer system.

D. Supervise appraisal staff.

E. Negotiate contracts with fee appraisers and specialists, and oversee their completion.

F. Act as liaison between Review Appraiser and appraiser regarding review and/or rejection of appraisal reports. (See Chapter 5-3.2 through 5-3.3.)

G. Act as liaison between the Attorney General’s Office and staff appraisers.

4-5.2 Appraiser

The appraiser’s responsibilities include the following:

A. Appraising items of property that have been identified as real estate fixtures. The appraiser itemizes and considers the fixtures in the report.

B. Performing and reporting in conformance with:
   1. Either the Staff Appraiser Assignment (WSDOT Form 211-007) or the Personal Services Contract (WSDOT Form 260-004).
   2. The Certificate of Appraiser (WSDOT Form 261-015).
   3. Instructions peculiar to the specific assignment.
C. Providing acceptable written appraisals or estimates in accordance with the *Appraisal Guide* (Appendix 4-1) and *Estimates* (Appendix 4-2).

D. Providing appraisal revision and corrective action as requested by the Review Appraiser.

E. Coordinating appraisal matters with legal staff at pretrial conferences.

F. Appearing as an expert witness for the WSDOT.

G. May act as negotiator as well as appraiser on parcels with $2,500 or less just compensation.

4:M:RES4
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### WSDOT Appraisal Report Guide
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Appraisal Report Guide

Part I — Evaluation Guidelines

A. Departmental Standards

1. An appraisal is a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value or an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. The format and level of documentation for an appraisal are dependent on the complexity of the appraisal problem to be solved. An acceptable appraisal report is one which fulfills all the requirements of this Appraisal Report Guide and contains factual support and sound reasoning for conclusions drawn. An appraisal may fulfill all requirements of the Appraisal Report Guide as to data contained, etc., and not be acceptable because of inadequate investigation or interpretation of market facts and/or unconscionable judgment of such facts.

2. It is the policy of the Real Estate Services Office to appraise all properties affected by WSDOT highway projects prior to negotiations for purchase or property rights required for highway purposes. Appraisals shall be made to determine the value or the property rights sought by the state, basing such determination on the legally compensable amount of the fair market value lost to each separate ownership by virtue of the WSDOT's highway project plan. All policy in this connection is governed by a constitutional provision of the Washington State Constitution; specifically, Amendment 9, Art. 1, Section 16 Eminent Domain, which reads in part: "No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, etc."

3. The policy designed to carry out the requirement for the payment of just compensation is not personal in its context. It is not a limitation on the person whose property may be taken, but a limitation on property taken for public use. The sole restriction or limitation is to preserve for the owner a right to "just compensation." It is for the property taken and not to the person whose property is taken. Evaluation in both the before and after instances is to be based on "fair market value" and not "value in use," i.e., ordinary value or the real estate in the open market to people generally and not special value to a particular owner or special value to a particular operation due to some individualistic peculiarity of the operation. "Fair market value" is the amount in cash which a well-informed buyer, willing but not obliged to buy the property, would pay, and which a well-informed seller, willing but not obligated to sell it would accept, taking into consideration all uses to which the property is adapted and might in reason be applied. The mathematical difference between the two values (market value "before" minus market value "after") is the just compensation after adjusting for items that are not compensable under the law. The "after value" is based on the value of the remainder property assuming that the actual construction of the proposed project will not be completed until an estimated future date. Any temporary inconvenience during or caused by, the actual construction of the project is not considered in the appraisal. Fair market value shall normally be that of fee simple title.

4. The public, which must bear the burden of these public projects designed to safeguard and protect the private property of all, should be assured that the compensation awarded shall be just and not generous; shall be adequate but not a windfall; and shall approximate what it can reasonably be assumed the property would bring in cash, in an open market exchange to a willing seller and under normal bargaining procedure.
B. Total Acquisition

When WSDOT's highway project plans necessitate acquisition by WSDOT of an entire ownership, just compensation is the fair market value of the property, taking into consideration as part of the property such improvements that have been determined to be real property, evaluated as of the date of appraisal.

If a tenancy is involved, the tenant owned real property improvements are evaluated as of the date of the appraisal and as they contribute to the market value of the property or their value for removal, whichever is greater.

C. Partial Acquisition

1. General

When the WSDOT's highway project plans necessitate acquisition by the state of less than a total ownership, just compensation for the rights to be acquired is the difference between the fair market value of the entire ownership prior to the acquisition and the fair market value of any portion thereof not required by the state's highway project plans after adjusting for items that are not compensable under the law.

a. Both evaluations ("before" and "after") are based on fair market value as of the date of appraisal by the state. Before and after values reflect the amount which one buyer would pay and which one seller would accept under the value definition.

b. If the market evidence reveals no difference between the value before and the value after the acquisition, the Appraiser reports the facts dictated by the market. The Appraiser is not obligated to report a difference when none exists in fact. The Appraiser is obligated to report only the facts and conclusions based purely on appraisal considerations.

c. If a tenancy is involved, the tenant owned real property improvements are evaluated as of the date of the appraisal and as they contribute to the market value of the property or their value for removal, whichever is greater.

2. Benefits

In this state, it is necessary to differentiate between and understand three concepts wherein value may be created by a pending highway improvement in order to properly treat same in right of way acquisition. The three concepts are, therefore, defined as follows:

a. Enhancement. Increases in real estate values in advance of right of way acquisition created by knowledge of a pending highway improvement.

b. Special Benefits. Value accruing to the remainder of a property by reason of acquisition and use by the state of a portion of such property where such value is special to said remainder and not enjoyed by the general public. Benefits may be special although other owners on the facility receive similar benefits.

c. General Benefits. Washington law does not clearly define general benefits. Because of this we have only attempted to explain special benefits and will assume that any benefits which are not "special" may be properly considered to be "general" benefits.

Under both state and Federal procedures, an owner may not receive compensation based on values due to "enhancement" (see 3f, below). In federal condemnation cases, consultation with the U.S. Attorney will be necessary to determine benefits that may be offset against the take and any damages.
In state condemnation cases, only special benefits are to be offset against compensation for the part being acquired and/or damages.

Appraisers' market studies must be sufficiently encompassing to enable them to detect both adverse and beneficial effects on property values in the path of prospective highway improvements. They need to be able to demonstrate and evaluate such effects, hereby avoiding a reporting of value conclusions which would tend to penalize a property owner where values were depressed or to penalize the general public where values were enhanced by knowledge of a pending highway improvement. However, maintenance within the control of the owner or tenant must be considered in estimating the market value of a property.

Appraisers' market studies must also enable them to detect special and general benefits to remainders and to differentiate where special benefits are present, explaining their reasoning.

3. Damages
   a. General
      (1) Damage is the mathematical difference between the value of the remainder after the acquisition and the value of the remainder as a part of the whole prior to the acquisition if no benefits are found to exist.
      (2) The Appraiser is required to fully explain the physical facts which cause the remainder to suffer a loss in value (damages) and the market facts which justify such a conclusion.
   b. Mitigation of Damages
      (1) WSDOT may negotiate for the purchase of property outside the right of way for the purpose of mitigating a portion or all of the damage to remainders in various circumstances when such mitigation can be shown to create a saving to the state. The amounts of such savings are determined by appraisal techniques and documented by confirmed factual cost data secured by the department.
      (2) Certain types of mitigations may not be allowed in legal actions. The Senior Appraiser consults with the Attorney General Division when in doubt.
      (3) An improvement lying partially within the right of way to be acquired is considered as taken in total unless it is found that such improvement may be rehabilitated in place and thereby preserve its utility. In the latter case, there must be a showing that: (a) from the standpoint of the prudent person, such rehabilitation would be the typical action, and (b) such rehabilitation is economically justified. A two premise appraisal is necessary showing compensation (1) assuming no rehabilitation, and (2) assuming rehabilitation has been accomplished.

      The Senior Appraiser secures bid(s) from reliable contractor(s) indicating the cost of rehabilitation.
   c. Modification of Project Plans
      The Appraiser, or Senior Appraiser, reports in writing to the District RESM any justified construction items that would mitigate damages.
d. Uneconomic Remnants

An uneconomic remnant is a remaining portion or a property in which an owner is left with an interest that WSDOT determines has little or no utility or value to the owner.

WSDOT has a concern for those owners who are at risk and must sell such a remnant to a third party in order to break even or who must undertake a totally new business in order to take advantage of a changed highest and best use. The determination of such remnants is the responsibility of the Review Appraiser (see Chapter 5).

e. Damage Items Not Compensable

There are certain items which are not compensable under the law. Approved just compensation and appraisal reports secured by the department exclude compensation for damage items not compensable under state law. Following is a list of some of the noncompensable items.

(1) Annoyance and inconvenience suffered by the public in common.

(2) Injury to business.

(a) Generally: including loss of profits due to necessity of removing business to some other location and loss of profits due to interruption of business by reason of and during course of construction of the public improvement.

(b) Where the type of business is an integral part of or closely related to the land itself, the nature and amount of business and the income therefrom may be admissible as bearing directly upon the value of the land.

(c) Chapter 8.26 RCW authorizes the Transportation Commission to make specified payments for displacement and relocation. Such payments are not part of just compensation and are not to be included as part of the appraisal process.

(3) Expenses for moving private and business personal property or for damages arising from the owner's inability to locate an acceptable substitute location are not a part of just compensation (27 Am. Jur. 2d Eminent Domain Sec. 293).

(4) While an abutting owner has a right to ingress and egress the loss of which will be compensated where there is either a physical injury to the property or impairment of the access, there will not be compensation when the state, by proper exercise of its police power, installs traffic control devices and there results:

(a) A rerouting or diversion of traffic;

(b) A decrease in the amount of traffic on the highway;

(c) Circuity or impairment of travel caused by a divided highway.

(5) In general, all those types of damages such as can be considered potential, speculative, and remote, being uncertain and difficult to ascertain, are not to be considered.
f. **Damages or Benefits to Property Before Acquisition**

Any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. RCW 8.26.180.
Part II — Specifications

A. General

In the appraisal of real estate for the purpose of acquiring right of way, the considerations are generally confined to estimating Fair Market Value.

B. Rules for Form Choice

1. The Senior Appraiser:

   a. Preferably at the true cost stage, but prior to parcel appraisal assignment, and in conjunction with the Review Appraiser and property owner:

      (1) Identifies any real estate specialty items such as trade fixtures and/or equipment. These are to be evaluated as to their Fair Market Value contribution to the whole property. For complex items an expert is contracted to do a specialist’s report. Such a specialist’s report is provided to the appraiser of the parcel for consideration in the appraisal.

      (2) In the case of tenancy, identifies any tenant-owned real property improvements. If a condemnation clause appears in the lease, the District RESM is notified and requested for advice on how to proceed. If the items are compensable (no condemnation clause) they are to be evaluated under the following two premises, disregarding any right or duty to remove them by the tenant:

         (a) The Fair Market Value which such item(s) contribute to the Fair Market Value of the whole property;

         (b) The Fair Market Value of the item(s) for removal (orderly liquidation value).

      If the tenant-owned real property improvements are of a complex nature they are usually evaluated by an expert in a specialist’s report. The Appraiser of the parcel must consider their Fair Market Value Contribution to the whole property based on the higher of the above two premises.

   b. Obtains any needed legal opinions or appraisal instructions.

   c. Obtains any other needed specialist reports (e.g., timber cruises, costs to cure, etc.).

   d. Reviews and approves (for contract compliance) the specialist’s report by signing and dating the Certificate of Specialist (WSDOT Form 261-025) in the blank provided.

   e. Provides (as appropriate) to the Appraiser:

      (1) Either Staff Appraiser Assignment (WSDOT Form 261-007) or appraisal contract.

      (2) Right of way plans, profiles, and cross sections.

      (3) Any specialist’s reports, legal opinions, and/or special instructions that may be necessary.

      (4) Title report(s).

      (5) Necessary printed report forms.

2. All reports are printed or typewritten. Title reports and other materials in the Addenda are submitted as furnished to the department.

3. Each item in the appraisal report is numbered and contains the information called for by the similarly numbered item in the Appraisal Report Guide.

4. Beginning with page 2, the following are either typewritten or printed at the bottom of each page of the report:
   a. Appraiser's/Specialist’s name.
   b. Consecutive page numbering.
   c. Parcel number or numbers of the ownership.

5. The Appraiser includes an analysis of the specialist's report within the text of the appraisal report. Items or amounts shown by the specialist are not arbitrarily adopted by the Appraiser, but are considered as to their possible contribution to or diminution of the subject property's value. The specialist's report is included in the Addenda of the appraisal report regardless of the extent to which the data are used.

6. The Appraiser offers the property owner the opportunity of accompaniment at the time of the property inspection. A Report of Contact With Owner (WSDOT Form 261-013) is completed, reporting such contact and inspection, and is included in the Addenda of each appraisal report.

7. Appraisal and specialist reports are assembled as shown in Appendix 4-1, Tabs A through F. The completed report is stapled in the upper left-hand corner only. The report is not placed in a folder.

8. The original and the number of copies agreed to by the contract are signed and submitted to the assigning Senior Appraiser. Unless otherwise specified, an original and three copies of each report are required.
C. Deciding Which is the Correct Type of Appraisal Form

The acquiring agency must base its appraisal form choice on the magnitude of the appraisal problem. The quick-reference chart below outlines the choice requirements:

<table>
<thead>
<tr>
<th>Form</th>
<th>Conditions</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>(None)</td>
<td>No appraisal is required if released by the property owner when a donation situation.</td>
<td>Owner must be informed of the right to receive just compensation based on an appraisal.</td>
</tr>
<tr>
<td>(None)</td>
<td>Simple acquisition where total just compensation is $2,500 or less.</td>
<td>Value finding evidence (such as true cost estimate) or other explanation needed. (see Chapter 5 — Appraisal Review.)</td>
</tr>
<tr>
<td>Minimal Value Appraisal Report</td>
<td>Simple acquisition where total just compensation is $7,500 or less, and where damages are nominal or are measured by cost to cure.</td>
<td>See Tab E (below) for requirements.</td>
</tr>
<tr>
<td>Short Form Appraisal</td>
<td>Whole or partial acquisitions where the property's present use is its highest and best use and where said use is the same before and after acquisition. Only one value approach, the market data approach, is usually applicable here. Damages are nominal or are measured by cost to cure.</td>
<td>See Tab D (below) for requirements.</td>
</tr>
<tr>
<td>Standard Form Narrative Appraisal</td>
<td>When none of the above apply</td>
<td>See Tab C (below) for requirements.</td>
</tr>
</tbody>
</table>

D. Report Preparation

The format, rules, and procedures for the various types of reports are given in the following tabs:

A. Specialist's Report
B. Surplus Property Form
C. Standard Narrative Form
D. Short Form, Narrative-Type
E. Minimal Value Appraisal Report
F. Project and Strip Appraisal Procedures
Tab A
Specialist’s Report

i. Rules

A. A specialist’s report evaluates a special and/or cost-to-cure item; e.g., a timber cruise, well drilling, facade rehabilitation, specialty real estate equipment, etc.

B. The specialist’s report is a written document which contains the following (where applicable):


2. Statement of the purpose of the report and definition of the value(s) or cost(s) reported, i.e., reproduction cost less depreciation, salvage value, cost to cure, etc.

3. Identification of the property, its ownership, and location (i.e., a complete listing of all items, each described to the extent that it may be valued and located and identified in the field).

4. Statement of appropriate contingent and limiting conditions, if any.

5. Statement of the problem to be solved by the specialist.

6. The estimate of value(s) or cost(s) as of a specific date.

7. The specialist’s report provides a breakdown of the total estimate showing individual amounts for each item, such as: material, labor, profit, and sales tax.

8. The data and analysis to explain, substantiate, and thereby document the estimate of value(s) or cost(s).

9. Descriptive material; i.e., special instructions, maps, charts, plans, photographs, etc.

C. Upon review and approval by the Senior Appraiser, the specialist’s report is submitted to the Appraiser for consideration within the appraisal and for inclusion in the Addenda of the appraisal report.

ii. Procedures

A. The specialist completes the report as follows:

1. PAGE 1 — *CERTIFICATE OF SPECIALIST* (WSDOT Form 261-025)

The printed form is page 1 of the specialist’s report and includes the following:

   a. Right of Way Map Identification—The purpose of the block in the upper right-hand corner is to identify the specialist’s report with the particular highway map upon which the parcel is shown as of the date of the evaluation. A subsequent revision of the right of way map (shown by the “Last Revision” date) could nullify the validity of an earlier evaluation. The specialist’s report is, therefore, identified with the map currently furnished by the department.

   The specialist refers to the *Agreement for Services* (WSDOT Form 261-011) for the parcel numbers, Federal aid number (if any), and correct project number and title. The project title is the
same as the map title found in the lower right-hand corner of the department's approved right of way and/or pit site map sheet.

In the case of a common borrow site, the project title also includes the name of the highway project for which the common borrow site is intended to be used. The pertinent — "for use on" — information is shown on the pit site map within the block which shows the particular site involved.

A specialist’s report may NOT include any conclusion based upon an expectation of a future map revision without written instructions. A copy of any such instructions is included in the Addenda of the specialist’s report. If the current right of way map does not reflect current conditions, such fact is made known to the Senior Appraiser who will seek correction of the map prior to permitting the evaluation to be continued. Any necessary revision of the specialist’s contracted due date is executed by a new Personal Services Contract (WSDOT Form 260-004). Special authorization is secured by the Senior Appraiser if the best interest of the state will be achieved by continuing the evaluation in spite of map inaccuracies or omissions. If the map is in error on the location of improvements, staking on the ground is considered to override and supersede map information.

Include in the statement contingent and limiting conditions, reference to any special instructions received from the Senior Appraiser, and the specialist’s specific findings in any case of map error.

b. Certificate of Specialist— The wording of the certificate has been authored by the department to serve specific requirements. The specialist is expected to be fully aware of the language of this certificate. The specialist is to show all dates on which he/she inspected the property being evaluated, in the first paragraph.

c. The “date of evaluation” is the most recent date of property inspection by the specialist. It is inserted in the blank in the eighth paragraph.

d. The “Date of Contract” is the date on which the contract was approved by Director, Real Estate Services (DRES). Dates of approval of any and all contract revisions are listed in order by date under the original contract date.

e. The specialist completes the certificate by inserting the firm name, signing and dating the form with the date being that on which signed.

f. “DO NOT WRITE BELOW THIS LINE”—This space is for district use only. The only marks in this space are the date of receipt of the report in district, and the signature and date of approval of the report by the Senior Appraiser. Date stamping in this space is accomplished by WSDOT personnel to show the actual date of receipt by the WSDOT.

2. PAGE 2 et seq. — NARRATIVE SECTION OF THE SPECIALIST’S REPORT

In this section, the specialist presents a narrative report which covers (in the order listed) the items in Appendix 4-1, Page A-1, Parts iB2 through iB7.

3. ADDENDA

In this section, the specialist includes all pertinent supporting data as indicated in Appendix 4-1, Page A-1, Parts iB8 and iB9.

B. The Senior Appraiser:

1. Assures that the specialist’s report has been date-stamped in the district.

2. Reviews the report (for contract compliance) and:
a. Obtains any necessary corrective action; or approves the report by signing and dating the Certificate of Specialist — (WSDOT Form 261-025), and submits the approved report to the Appraiser.

b. Assures that the Appraiser incorporates the specialist’s report as provided in Appendix 4-1, Page A-1, Part iB5.
Tab B
Surplus Property Report

i. Rules
A. A Surplus Property Report (WSDOT Form 261-005) is used to evaluate real estate interests to be disposed of by WSDOT. The Surplus Property Report form is to be used only on minor, non-complex real properties. Complex surplus parcels are to be appraised using the short form (see Tab D) or the standard narrative form (see Tab C). If the longer forms are used, refer to item ii, A, 3e below. Surplus property rights (e.g., access rights, easement or use rights, etc.) are valued on a “before” and “after” basis assuming the recipient parcel has the right in the “before” situation but does not have it in the “after” situation. The difference between the “before” and “after” situation is the Fair Market Value of the surplus property right. It is also recommended that the Short Form or Standard Narrative Form is used in such instances.

B. The Surplus Property Report contains the following:

1. Transmittal heading and date, to be completed by the Property Management Program Branch.

2. Items I (Purpose), II (Origin), III (Background), and IV (Identification) are to be completed by the Property Management Section.

3. Item V (Property Description; Sketch, and Photograph) is to be completed by the Appraiser.

4. Item VI (Correlation) is to be completed by the Appraiser.

5. Items VII A, B, C (Evaluation Data) are to be completed by the Appraiser.

6. Item VII D (Review) is to be completed by one of the department’s Appraisal Reviewers.

7. Items VII E, VIII (Comments), IX (Recommendations for Disposal), and X (Surplus Declaration) are to be completed through the Property Management Section.

ii. Procedures
A. The Appraiser completes the Surplus Property Report as follows:

a. Property description: A narrative depiction of the parcel’s physical features including all elements that might relate to marketability (e.g., access, size, utilities, etc.), location, existing and/or potential zoning (including jurisdiction), improvements (if any), highest and best use as an entity to the most probable market, enhancement (if any) due to attachment of the subject to one or more of the abutters.

b. Sketch and photograph: Need not be drawn to scale but must include dimensions of land and any improvements, access frontages, or easements, photo directions, north arrow, abutter tracts labeled “A,” “B,” “C,” etc., and nearness to a landmark so it can be located in the field. A minimum of one Polaroid-type photograph or the parcel is required in this section.

2. Item VI

a. The appraiser correlates attached comparable sales Market Data (WSDOT Form 261-020) to an estimate of the market value as an entity. If the parcel is such that no sales of comparable
properties exist, the Appraiser estimates value and justifies the conclusion using sound and consistent reasoning.

b. In this section the Appraiser lists the names and mailing addresses of the abutters noted as "A," "B," etc., on the sketch. In the case of abutters under contract, the contract vendee is considered the abutting owner.

3. Item VII

a. The Appraiser's concluded entity value is inserted at A.

b. For each abutting property, the Appraiser lists the unit value (per SF, per acre, etc.) at B, based on the Appraiser's knowledge of land values per brokers, sales, etc., in the vicinity.

c. The Appraiser lists the unit value of abutter lands, assuming each is joined with the subject, at C.

d. The Appraiser signs and dates the Surplus Property Report and submits the original to the Appraisal Review Section Supervisor.

e. When using the short form or standard narrative form for appraisal of surplus properties, the Appraiser attaches the Surplus Property Report to the appraisal addenda, filling out only these portions in 3a, b, c, d.
Tab C
Standard Narrative Form Appraisal Report

i.  Format

The Standard Narrative Form Appraisal Report is organized according to the following format:

SECTION I — Identification and Summary

Page 1, Certificate of Appraiser (WSDOT Form 261-015)

Page 2, Summary of Conclusion (WSDOT Form 261-016)

Page 3, Photographs of all Principal Improvements and/or Features Affecting Value (WSDOT Form 261-017)

Page 4, et seq., Narrative Report:

Item 1 — Owner

Item 2 — Address (or location) of subject property

Item 3 — Legal description

Item 4 — Delineation of title

Item 5 — Purpose of appraisal

Item 6 — Summation of appraisal problems

SECTION II — Evaluation of Total Ownership

Item 1 — Assumptions and limiting conditions

Item 2 — Neighborhood location and description

Item 3 — Description of subject property

A. Present use

B. Accessibility and road frontages

C. Land contour and elevations

D. Land area

E. Land shape

F. Utilities

G. Present zoning

H. Highest and best use of land if vacant
I. Improvements
J. Specialty items
K. Real estate taxes
L. Assessments
M. Existing lease or rental data
N. Highest and best use of whole property as improved

Item 4 — Valuation of property

A. Site analysis and evaluation
   1. Comparative approach, site evaluation
      a. General discussion
         (1) Data search area, time frame, market units
         (2) Sales that are comparable
      b. Comparative analyses
      c. Correlation and conclusion by comparative approach
   2. Income approach, site evaluation
      a. Data
      b. Analysis
      c. Correlation and conclusion by income approach
   3. Correlation and final conclusion, land value

B. Approaches to value, whole property
   1. Comparative approach
      a. General discussion
         (1) Data search area, time frame, market units
         (2) Sales that are comparable
      b. Comparative analyses
         (1) Whole property comparisons
         (2) Comparative units
      c. Correlation and conclusion, comparative approach
2. Income approach (when necessary or appropriate)
   a. Data
   b. Analysis
   c. Correlation and conclusion, income approach
3. Cost approach (when necessary or appropriate)
   a. Cost new
   b. Accrued depreciation
   c. Land value
   d. Indicated value by cost approach
C. Correlation of value indications from all approaches

SECTION III — Remainder Evaluation

Item 1 — Assumptions and limiting conditions
Item 2 — Neighborhood factors
Item 3 — Description of subject remainder as an entity
   A. Accessibility and road frontages
   B. Land contour and elevation
   C. Land area
   D. Land shape
   E. Utilities
      1. Utilities actually remaining
      2. Utilities lost and possible corrective potentials
   F. Probable remainder zoning
   G. Highest and best use of remainder land if vacant
   H. Improvements
      1. Improvements remaining in whole
      2. Improvements remaining in part
         a. Descriptions
         b. Rehabilitation specifications, if rehabilitation feasible
I. Remainder specially item considerations
J. Estimated real estate taxes
K. Possible remainder assessments
L. Lease or rental potential
M. Highest and best use of remainder as improved

Item 4 — Valuation of property remaining

A. Site analysis and evaluation
   1. Comparative approach, site evaluation
      a. General discussion
         (1) Data search area, time frame, market units
         (2) Sales that are comparable
      b. Comparative analyses
      c. Correlation and conclusions by comparative approach
   2. Income approach, site evaluation
      a. Data
      b. Analysis
      c. Correlation and conclusion by income approach
   3. Correlation and final conclusion, land value

B. Approaches to value, remainder whole property
   1. Comparative approach
      a. General discussion
         (1) Data search area, time frame, market units
         (2) Sales that are comparable
      b. Comparative analyses
         (1) Whole property comparisons
         (2) Comparative units
      c. Correlation and conclusion, comparative approach
2. Income approach (when necessary or appropriate)
   a. Data
   b. Analysis
   c. Correlation and conclusion, income approach
3. Cost approach
   a. Cost new
   b. Accrued depreciation (including analysis and explanations)
   c. Land value
   d. Indicated value by cost approach

C. Correlation of remainder value indications from all approaches

SECTION IV — Acquisition Analysis

Item 1 — Recapitulation
   A. Value of property before acquisition
   B. Value of property after acquisition
   C. Difference between “before” and “after” values

Item 2 — Explanation of damages

Item 3 — Explanation of special benefits

SECTION V — Addenda

A. Market Data (WSDOT Forms 261-020 and 261-020A)
B. Market data map
C. Special instructions; charts and illustrations
D. Report of Contact with Owner (WSDOT Form 261-013)
E. Title report
ii. Procedures

The following paragraphs present detailed instructions for the completion of the *Standard Narrative Form Appraisal Report*. These instructions are in accordance with the Formal (see Appendix 4-1, Tab C, Part I).

SECTION I — Identification and Summary

PAGE 1 — *CERTIFICATE OF APPRAISER* (WSDOT Form 261-015)

This printed form is page 1 of the appraisal report and includes the following:

A. Right of way map identification — The purpose of the block in the upper right-hand corner is to identify the appraisal report with the particular highway map upon which the parcel is shown as of the date of the appraisal. A subsequent revision of the right of way map (shown by “Last Revision” date) could nullify the validity of an earlier evaluation. The appraisal report is, therefore, identified with the map currently furnished by WSDOT.

The Appraiser refers to the *Personal Services Contract* (WSDOT Form 260-004) for the parcel numbers, federal-aid numbers (if any), and correct project number and title. The project title is the same as the map title found in the lower right-hand corner of WDOT’s approved right of way and/or pit site map sheet.

In case of a common borrow site, the project title also includes the name of the highway project for which the common borrow site is intended to be used. The pertinent (“for use on”) information is shown on the pit site map within the block which shows the particular site involved.

An appraisal report may NOT include any conclusion based upon an expectation of a future map revision without written instructions. A copy of any such instructions is included in the Addenda of the appraisal report. If the current right of way map does not reflect current conditions, the Senior Appraiser seeks correction of the map prior to permitting the appraisal to be continued. Any necessary revision of the Appraiser’s contracted due date is executed by a new *Personal Services Contract*. Special authorization is secured by the Senior Appraiser if the best interest of the state will be achieved by continuing the appraisal in spite of map inaccuracies or omissions. If the map is in error on location of improvements, staking on the ground is considered to override and supersede map information.

Include in ITEM I of SECTION II (Assumptions and Limiting Conditions) reference to any special instructions received from the Senior Appraiser, and the Appraiser’s specific findings in any case of map error.

B. *Certificate of Appraiser* — The wording of the certificate has been authored by the WSDOT to serve specific requirements. The Appraiser is expected to be fully aware of the language of this certificate. The property owner (or his designee) is given the opportunity to accompany the Appraiser during his inspection of the subject property. In the first paragraph, the Appraiser is to show all dates on which he inspected the property being evaluated.

C. The date of evaluation is the most recent date of property inspection by the Appraiser. It is inserted in the blank in the eighth paragraph.

D. The ninth paragraph of page 1 (FAIR MARKET VALUE) is designed to display the final conclusion of the Appraiser. In the case of a total acquisition, the words “total acquisition” are inserted in lieu of a remainder value, and the third blank line is ignored. If a two premise appraisal is required, insert the conclusions for “Premise 2” immediately to the right of those for “Premise 1,” and label both appropriately; or include two Page 1’s, one labeled Premise 1 and the other labeled Premise 2.
E. Encumbrances

1. The tenth paragraph on page 1 beginning, “This property has been appraised for its fair market value.....,” is designed to provide ready identification of a parcel which cannot be marketed in fee simple due to the existence of outstanding dominant interests. Basic ground rules of appraising property for WSDOT require the evaluation of all rights of fee ownership because WSDOT assumes the responsibility of clearing all interests presuming the market value or the fee to be equal to the sum of all partial interests.

2. WSDOT recognizes easements of material duration, perpetual easements, (including electrical transmission power lines), deed or title restrictions (including access limitations and use restrictions imposed on the title) as having possible adverse effects on market value. In the event of the existence of such an encumbrance in a particular case, the Appraiser inserts (in the tenth paragraph of page 1) a single statement to identify such interests, and in the narrative report he discusses their effect, if any. In these cases, the evaluation reflects the value of the property as encumbered.

F. The eleventh paragraph on page 1 beginning, “The opinion of value expressed above .....,” requires that the Appraiser show the total number of pages in his report in order to avoid inadvertent loss of pages or the possibility of any fractional use of the report. The number of pages shown here is the total page count of the appraisal report, including the Addenda.

G. The “Date of Contract” is the date on which the contract was approved by the DRES. Dates of approval of any and all contract revisions are listed in order by date under the original contract date. Staff Appraisers use the date of assignment.

H. Appraisers complete the certificate by inserting the firm name, signing and dating the form (in the number of copies called for by his contract) with the date being that on which they signed.

I. “DO NOT WRITE BELOW THIS LINE.” This space is for district and headquarters’s use only. The only marks in this space are the date of receipt of the appraisal in district and in headquarters. Date stamping in this space is accomplished by department personnel to show the actual dates of receipt by WSDOT.

PAGE 2 — SUMMARY OF CONCLUSIONS (WSDOT Form 261-016)

This printed form is page 2 of the appraisal report and includes the following:

A. A breakdown is required of each of the following: the value before acquisition, the value of the remainder and a breakdown of the difference between the “before” and “after” values. On total acquisitions, a breakdown of “before” value only is required. (This page is for a tabulation of certain specific data for WSDOT use and does not necessarily represent the methods of appraisal or the techniques employed.)

B. If more than one value premise is necessary, a separate Summary of Conclusions is inserted for each premise. They are respectively labeled “Premise 1,” “Premise 2,” etc., in the lower right-hand corner above the parcel number.

PAGE 3 — PHOTOGRAPHS OF ALL PRINCIPAL IMPROVEMENTS AND/OR FEATURES AFFECTING VALUE (WSDOT Form 261-017)

This printed form is Page 3 of the appraisal report, and includes the following:

A. Photographs — Each appraisal report includes a sufficient number of photographs, properly identified and taken at various angles to show significant features of the property, especially the improvements, and the take. Machine copy or other facsimile reproductions are not acceptable in either the initial or in any revised appraisal reports.
B. Sketch — A plot plan sketch of the subject property is required. The sketch should assist the reader to visualize the parcel and the scope of the related appraisal considerations. The minimum pictorial requirements itemized on the form require showing the entire subject, including perimeter dimensions and parcel area. All street frontages are identified. All pertinent improvements and other significant features of the property are shown in their approximate locations, including alleys, roadways, and easements. The dimensions of the improvements are shown. The geographic orientation of the property is identified by means of a north directional arrow. A machine copy of a “reduced print” size of the right of way map depicting the subject and surrounding properties may not be used.

The location from which each subject photograph was taken is identified by drawing a circle around the place from which each was taken. The photo serial number is printed inside each circle and the direction the camera lens was pointing is indicated by a short arrow. In the case of a partial acquisition, the limits of the proposed right of way are shown. The remainder dimensions and area are shown. Any restriction of access is shown by pictures. If road approaches are to be permitted, they are shown in their approximate locations. More than one sketch may be required for clarity in some situations. Where this is necessary, the second sketch is confined to showing either the remainder details only, or an enlargement of a portion of the total parcel. Both sketches shall carry sufficient identification to pictorially indicate the relationship of the sketches to each other. When an alternate remainder evaluation is required, a sketch of the remainder is included in the Addenda of the report.

PAGE 4, et seq. — NARRATIVE REPORT

ITEM 1 — OWNER

The names (and addresses, if available) of all current owners are shown. Where certain parties are contract purchasers, life estate owners, tenants, etc., so indicate.

ITEM 2 — ADDRESS (OR LOCATION) OF SUBJECT PROPERTY

The address of the property is shown, or if an address is nonexistent or does not readily reveal a specific geographical location (as in the case of a rural postal route and box number), the location of the property is described by reference to names of streets, roads, highways, and distances from describable landmarks.

ITEM 3 — LEGAL DESCRIPTION

It is not necessary to include a full legal description of the property; however, the Appraiser indicates his knowledge of the legal description and title condition by inserting the following text:

“As shown on the title report, dated ______________, pertaining to subject parcel, a copy of which is included in the Addenda of this report.”

ITEM 4 — DELINEATION OF TITLE

Here show all sales of the property occurring within the previous five years. Each sale is tabulated in order of occurrence showing the grantor, grantee, date of sale, Auditor’s volume and page, confirmees, and the sale price as follows:

FROM TO DATE BOOK/PAGE CONFIRMEES CONSIDERATION

Following each sale, state an opinion on whether the sale can be considered as evidence of value. If it can, the sale information and the Appraiser’s analysis thereof are reopened on the Market Data form (WSDOT Form 261-020) and included in the report. If the sale cannot be considered, the Appraiser states why.
ITEM 5 — PURPOSE OF THE APPRAISAL

The purpose of all appraisals is to estimate the "fair market value" which is defined below. In the case of a "total acquisition," the purpose of the appraisal is to estimate the market value of the entire ownership. In the case of a "partial acquisition," the purpose of the appraisal is to first estimate the market value of the entire ownership and second to estimate the market value of the remainder. The difference between the two values is then to be analyzed (by the Appraiser) as to the allocation of the value differential to real property acquired and damages or special benefits to the remaining real property and property rights.

"Fair market value" is the amount in cash which a well-informed buyer willing, but not obliged to buy the property, would pay, and which a well-informed seller willing but not obligated to sell it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

ITEM 6 — SUMMATION OF APPRAISAL PROBLEMS

The purpose of this item is to explain the principal problems presented by the particular parcel in estimating market value; and, in the case of a parcel acquisition, also to explain (in general) the principal differences in character and amenity between the parcel before the acquisition and the portion remaining after the acquisition.

The Appraiser begins by explaining what property and rights are to be acquired. This is done in very general terms because the description of the before situation in Section II, the description of the remainder in Section III and the itemization of rights being acquired on Page 2 of the report are to be very comprehensive on this point. By the Appraiser's first explaining the significance of the differences between the before and the remainder circumstances, he can more effectively focus the reader's mind on the more important value considerations. The areas in acres or square feet of both the before and remainder are noted. If the acquisition will include the acquisition by the state of easement rights, the area, type, and effect of such easement are stated and are taken into consideration in the evaluation of the remainder (Section III). If more than one value premise is necessary, an explanation of each premise is given here. If it is determined that items such as trade fixtures, machines, equipment, or other items of a more or less personal nature are to be included in the evaluation of a property, those items so included should be listed within the Addenda of the appraisal and reference thereto included here. If said items are tenant owned, they are evaluated separately (see page II-1, Bla(2)).

SECTION II — Evaluation of Total Ownership

ITEM 1 — ASSUMPTIONS AND LIMITING CONDITIONS

The Appraiser states any assumptions and limiting conditions which are necessary to the background of the evaluation of the whole ownership before acquisition. Special legal opinions are secured from WSDOT or instructions furnished by WSDOT are mentioned here.

Encumbrances shown on the title report which have an effect on market value are listed by encumbrance number as shown on the title report.

ITEM 2 — NEIGHBORHOOD LOCATION AND DESCRIPTION

Under this heading, a brief description of the neighborhood and economic influences in force are given. The economic position of the appraised property relative to the neighborhood is explained.

ITEM 3 — DESCRIPTION OF SUBJECT PROPERTY

A. Present Use — The use or uses the property is presently serving are stated.
B. Accessibility and Road Frontage — Existing road or street patterns serving the property, existing property frontages, road approaches, grade differentials between the property and road frontages, existing access restrictions imposed by deed, title, police power or nature are described.

C. Land Contour and Elevations — A word picture of the "lay-of-the-land" is given here.

D. Land Area — Total ownership area in acres or square feet given here.

E. Land Shape — The general shape and dimensions of the ownership are included.

F. Utilities — Public and/or private utilities (sewer, water, gas, electric power, etc.) available to the property, their locations and quantities are included.

G. Present Zoning — The zoning and jurisdiction as of the date of appraisal is stated in words, not codes, for example: "Multi-residential, minimum area 7,200 square feet, Pierce County." Also, any restrictions on the use of the property are explained; e.g., set-back requirements, minimum on-site parking requirements, etc.

H. Highest and Best Use of Land if Vacant — In determining highest and the best use of the land, the Appraiser assumes the land to be vacant and available for its highest and best use even though it may not be actually vacant. He tells what use is the best for the land, ignoring any improvements, and why that use is the highest and best for this particular tract. Some parcels require value studies under more than one use assumption in order to support the decision. Any such study is explained in this paragraph. When the most logical use is not allowed under existing zoning, the Appraiser determines the reasonable probability of securing a zoning change.

I. Improvements — If the subject is improved, each of the improvements is named and identified on the sketch on Page 3 of the report. Each improvement is described, including age, construction, and general condition.

J. Specialty Items — These are items identified prior to appraisal as real estate equipment, real estate trade fixtures, crops, etc., and are to be identified in this section. The owner(s) of the item(s) must be identified here also. In most cases, a specialist's report evaluating the items is provided to the Appraiser at the time of assignment. The value of a specialty item is not arbitrarily added to the valuation of the other really, but is considered as any other basic data by the Appraiser in estimating the Fair Market Value of the whole property.

K. Real Estate Tax — The dollar amount of the real estate tax is shown as well as the assessed value and current tax rate.

L. Assessments — The dollar amount of any assessments against the property at time of appraisal is indicated.

M. Existing Lease or Rental Data — If the property is under a lease or rental agreement, the Appraiser investigates and reports the details of the encumbrance. Whenever possible, the Appraiser also obtains owner-tenant agreement copies and includes them in the Addenda. In the case of residential property where improvements are acquired or damaged, the Appraiser estimates economic rent for the property and what the rent includes.

N. Highest and Best Use of the Whole Property as Improved —

1. If the property is improved, the current highest and best use of the parcel is stated and explained. If it appears that the land is not developed to its highest and best use because of the improvements thereon, the Appraiser bases his decision on highest and best use for the total property on whether the value of the property as improved is greater than the value of the land if vacant. It may,
therefore, be necessary to prove highest and best use through appraisal techniques which reflect comparisons of values from alternate use premises.

2. If the property is vacant (unimproved), "Vacant" is stated under this heading. (See paragraph H, above.)

3. Evaluation of private property does not include value derived from the illegal use of state highway right of way for the conduct of adjacent businesses, or any other illegal use.

ITEM 4 — VALUATION OF PROPERTY

A. Site Analysis and Evaluation

Rules:

The most reliable evidence of the value of the site is recent sales of similar sites. Since no two tracts are identical, adjustments to the sale price of comparable tracts may be required to develop an indication of value for the appraised site. The evidence of the necessity to adjust, if at all, is present in the market and is illustrated in the appraisal report.

The employment of the hypothetical subdivision to develop raw land value may be introduced to support the market data and to illustrate the amount of money a prudent purchaser would likely pay for raw subdivision land. However, due to the many variables and speculative elements, the estimate of value is never based solely upon such a hypothesis.

The comparative approach is based on the principle of substitution; therefore, each comparable sale used in this approach must be sufficiently similar to the property to be considered by the investor as a substitute property.

The validity of the value conclusion drawn from this approach is in direct relation to the sufficiency and comparability of the data. Sales data must be of sufficient quantity and quality to give the value conclusion a solid base. To the extent that adjustments are needed in the sales analysis, the validity of the entire approach is brought into question.

Procedures:

1. Comparative Approach, Site Evaluation

   a. General Discussion

      (1) Here the Appraiser lays the groundwork for the comparative analysis by a statement of the extent of his search, the sufficiency and comparability of existing data and the general value bracket within which subject will fall.

      (2) Sales that are comparable are listed, identifying each by the sale number of the pertinent Market Data (WSDOT Form 261-020) in the Addenda. A format similar to the following is used at this point in the report:

<table>
<thead>
<tr>
<th>SALES NUMBER</th>
<th>GRANTOR/ GRANTEE</th>
<th>LAND AREA</th>
<th>SALE DATE</th>
<th>SALE PRICE</th>
</tr>
</thead>
</table>

Right of Way Manual
M 26-01

C-11

Change 24
August 1991
b. Comparative Analysis

Ideally, sales used are so closely comparable as to make adjustments unnecessary when equating them to the property being appraised. However, because such close compatibility rarely exists, a narrative comparative analysis of each comparable sale is made explaining how the sale relates to subject with required to those features which tend to influence market value. It is recognized that within comparable properties there may exist many items of dissimilarity to which the market does not react and for which adjustments are not attempted. If market investigation shows adjustment to be necessary, then each significant element of difference between the comparable and the subject is explained separately on its own particular merits, with an indication as to its value differential made either on a dollar or percentage basis. When there is a lack of market support for adjustments, sound and consistent reasoning in the comparison of each item of difference may be acceptable. In this latter instance, a greater number of sales should be used in order to broaden the scope of value evidence. When adjustments are made:

(1) As the number of adjustments or size of any single adjustment increases, the validity of the sale as a “comparable” is reduced.

(2) A comparative analysis chart or “grid” may be an aid to the Appraiser and a help to the reader.

c. Correlation and Conclusion by Comparative Approach

The several comparisons should result in close indications of the value of the property being appraised. In this section these indications are correlated into a single indication of value of the site by the comparative approach.

2. Income Approach, Site Evaluation

Certain types of land do not lend themselves to the use of the income approach because such land is not typically leased or rented.

When sufficient rental and/or leasing data are available with which to establish a sound basis for the income approach, the Appraiser, analyzes and processes such data here.

3. Correlation and Final Conclusion, Land Value

The appraisal report now explains how the Appraiser has weighed the indications of value, what specific value the total of the market data tends to indicate to the subject and why the market data indicates said specific value.

B. Approaches to Value, Whole Property

Rules:

If the site is improved, the value of the improvement is based upon its contribution to the value of the whole property (except for tenant-owned really items; see II.B.a(2)). All three commonly accepted approaches to the estimate of value, including supporting units of comparison, are employed as applicable. If one or more approaches to the estimate of value are omitted the Appraiser states the reason for each omission.

The comparative method of presenting market value evidence is the method most acceptable to WSDOT and to the courts and juries; consequently, the greatest reliance is usually placed upon market comparasion. Sufficient highly comparable data is analyzed to provide a sound basis for the conclusion
drawn from this approach. The authenticity of the entire approach is directly proportional to the sufficiency and comparability of the data obtained and the accuracy with which is is analyzed.

Procedures:

1. Comparative Approach

   a. General Discussion

      (1) Here the Appraiser lays the groundwork for the comparative analysis by a statement of the extent of his search, the sufficiency and comparability of existing data and the general value bracket within which subject will fall.

      (2) Sales and offerings that are comparable are listed identifying each by the sale number on the pertinent Market Data (WSDOT Form 261-010) in the Addenda. A format similar to the following is used at this point in the report:

         | SALES NUMBER | GRANTOR/ GRANTEE | LAND AREA | SALE DATE | SALE PRICE |

   b. Comparative Analysis

      Ideally, sales used are so closely comparable as to make adjustments unnecessary when equating them to the property being appraised. However, because such close comparability rarely exists, a narrative comparative analysis of each comparable sale is made explaining how the sale relates to subject with regard to those features which tend to influence market value. It is recognized that within comparable properties there may exist many items of dissimilarity to which the market does not react and for which adjustments are not attempted. If market investigation shows adjustment to be necessary, then each significant element of difference between the comparable and the subject is explained separately on its own particular merits, with an indication as to its value differential made either on a dollar or percentage basis. When there is a lack of market support for adjustments, sound and consistent reasoning in the comparison of each item of difference may be acceptable. In this latter instance, a greater number of sales should be used in order to broaden the scope of value evidence. When adjustments are made:

      (1) As the number of adjustments or size of any single adjustment increases, the validity of the sale as a "comparable" is reduced.

      (2) A comparative analysis chart or "grid" may be an aid to the Appraiser and a help to the reader.

   c. Correlation and Conclusion by Comparative Approach

      Here the Appraiser explains how he has weighed the various indications of value, what conclusion of value has been reached, and why the evidence supports such conclusion.

2. Income Approach

   Value conclusions reached through the income approach are valid only in direct relationship to the sufficiency and comparability of the data available and the accuracy and care with which such data are analyzed and processed. The Appraiser properly analyzes sufficient comparable data to provide a sound basis for the conclusion drawn.
Economic rent and expenses, as well as interest and capitalization rates, are supported by market evidence adequately portrayed in the report.

3. **Cost Approach**

The cost approach reflects either the depreciated replacement cost new or the depreciated reproduction cost new of the subject structure. The Appraiser gives the reason for his particular selection.

a. **Cost New** — In condemnation appraisals in Washington State, cost new is generally expected to be reproduction cost rather than replacement cost. While cost service manuals, cost estimators, or contractors may serve in support of an Appraiser’s estimate of costs, most valid evidence lies in the market facts of known costs of construction of like or similar structures within subject or competing areas.

b. **Accrued Depreciation** — The department will accept either of two methods of measuring accrued depreciation (1) the breakdown method, and (2) the market method. Of the two, the market method is preferred whenever its use is possible.

The Appraiser includes his analysis and explanation of accrued depreciation.

C. **Correlation of Value Indications From All Approaches**

The three approaches should produce indications of value within a reasonably narrow range.

In the correlation, the Appraiser explains why and how he arrived at the final estimate of value. The values that have been indicated by each approach and the reliability and relative merits of each are explained.

**SECTION III — Remainder Evaluation**

**ITEM 1 — ASSUMPTIONS AND LIMITING CONDITIONS**

The Appraiser assumes that the highway facility will be constructed in accordance with the present highway plan within the reasonable future.

Any assumptions applicable to the remainder are stated.

Legal opinions and special instructions that are applicable are stated, including a statement explaining the basic premise being employed.

All title encumbrances that will pertain to the remainder are stated and whether or not and why each such encumbrance has an influence on the market value of that remainder. Any access restrictions to be imposed by the state are explained. Note whether and where road approaches are to be constructed by WSDOT. Highway Engineer’s Station numbers are used on the right of way plan to locate permitted road approaches.

**ITEM 2 — NEIGHBORHOOD FACTORS**

State the environmental conditions which will be significant to the remaining property. Describe and explain what trends will probably influence the future of the property being appraised. Describe the new highway facility in relation to the property.
ITEM 3 — DESCRIPTION OF SUBJECT REMAINDER AS AN ENTITY

The remainder (that portion of the property remaining after acquisition of the right of way or materials site) is viewed as an entirely new property to be appraised. The types of data required to describe the remainder property are similar to that outlined in Section 11 for the “before” appraisal. Of particular importance to the department is (1) the presence and/or availability to the property of the customary and any special utilities, and (2) the highest and best use of the remainder.

Improvements remaining in whole or in part on the remainder are noted. Improvements remaining in part are assumed to be either rehabilitated in place or removed, whichever is feasible.

NOTE: An exception to requirements stated herein may be made when any item of the remainder is identical to that already described in the before situation. In such event, the Appraiser states: “as previously reported and described on page . . . .”

ITEM 4 — VALUATION OF PROPERTY REMAINING

As stated in Item 3, the valuation of the remainder is a new appraisal. In those cases where the portion acquired was of little significance to the total property, the remainder may be so nearly like the “before” situation that the same basic sales, income, and cost data are referenced and employed in new comparative, income and cost approaches.

On the other hand, if there is a change in the basic physical and economic nature of the remainder, including a change of highest and best use, or any variety of circumstances creating damages or benefits to such remainder, new supporting data and explanations of evaluations are introduced.

WSDOT normally acquires improvements which straddle the right of way line and may sell the salvage rights thereto or may remove the improvements leaving the remainder in a neat and orderly condition.

To support a rehabilitation hypothesis, in the case of an alternate remainder evaluation, the Appraiser will include in the Addenda a plot plan of the remainder, showing the rehabilitated improvements in sufficient detail to enable the reader to visualize the Appraiser’s specifications. The specifications must reflect those of a prudent person and need not include total replacement of all the features present in the “before” instance. In evaluating a remainder under this premise, the highest and best use of the land will have a significant bearing on the feasibility of assuming a rehabilitation.

If a permanent easement or temporary permit is imposed on the remainder by WSDOT, its terms are supplied to the Appraiser by the department’s Senior Appraiser. This information will consist of the area involved, the duration of the encumbrance, and the type of encumbrance. The value of the remainder is then estimated and reported, as encumbered, by the Appraiser. Market data is not always available with which to evaluate property subject to a particular type of encumbrance; however, this fact does not relieve the Appraiser from the obligation of making a search for supporting data. All available data is analyzed and reported together with the reasoning which led to the conclusions reached.

Again, the three approaches to value support the final conclusion of value. If an approach is not applicable, the narrative explains why it is not applicable. The valuation follows the same format as required in the “before” situation. If the same market data used for the “after” valuation were used for the “before” valuation, the appraiser explains and supports any different adjustments.

NOTE: A breakdown of the indicated value of the remainder is required on Page 2, Summary of Conclusions (WSDOT Form 261-016) regardless of the appraisal methods employed. If an easement is being acquired, the area and resultant unit, and total value is set out on this form.
SECTION IV — Acquisition Analysis

ITEM 1 — RECAPITULATION

The following statements are completed as worded:

A. Value of property “before” acquisition $______________

B. Value of property “after” acquisition $______________

C. Difference between “before” and “after” values $______________ (Subtract B. from A.)

NOTE: The difference between the “before” and “after” values is set forth on Page 2, Summary of Conclusions (WSDOT Form 261-016) and broken down into the types of information required by the form.

ITEM 2 — EXPLANATION OF DAMAGES

Damages as such are not appraised. The Appraiser appraises the property before acquisition and again as it will exist after acquisition. The conclusions reached are fully documented and supported. An explanation and comparative analysis is made of the difference between “before” and “after” values, isolating and property allocating the dollar difference to the value of the part taken and the compensable damages and benefits, if any.

When it is found that damages may be mitigated in whole or in part by a cost-to-cure item, it must be demonstrated that the cost-to-cure item is economically justified. The cost-to-cure cannot exceed the amount of damage which would accrue without such cure. In the event that firm bids for cost-to-cure items are needed, the Senior Appraiser secures such bids and furnished them to the Appraiser for his analysis and inclusion within the appraisal report.

ITEM 3 — EXPLANATION OF SPECIAL BENEFITS

Under this heading a narrative explanation brings out why and how the property enjoys special benefits. The amount of benefits are to be shown in terms of dollars, or the narrative explains that there is no special benefit. In this state, any special benefit that accrues to the remaining property by virtue of the state’s highway improvements is set off against both damages and the value of the property acquired.

SECTION V — ADDENDA

Rules:

MARKET DATA (WSDOT Forms 261-020 and 261-020a). All recent sales and offerings of nearby properties are studied and considered. Sufficient sales evidence (market data) is included in the report to provide a sound basis for evaluation of both the “before” and “after” situations of the property. WSDOT considers three sales as the minimum market evidence to support the least complicated bare land evaluation. The amount of data needed is in direct proportion to the number of property elements for which market analysis is required.

Market data may be offered to the Appraiser by the department in connection with an appraisal assignment without obligation on the part of WSDOT and without absolving the Appraiser from his professional responsibility for verification and further independent analysis of any and all pertinent data. WSDOT data is furnished without an analysis in order to avoid any action that might reduce the independence of an appraisal estimate.

The proper reporting and analysis of sales data is the foundation of a properly documented appraisal report. Appraisals made for WSDOT must contain sales data of adequate quality and quantity to demonstrate that the Appraiser has arrived at his conclusion of value as the direct result of a careful analysis of the current market.
WSDOT holds that where market data is weak in comparability a greater than usual volume of data must be analyzed.

WSDOT Form 261-020a is a continuation of WSDOT Form 261-020 and is used for analysis of cost and income data as appropriate.

Procedures:

A. Complete the Market Data (WSDOT Forms 261-020 and 261-020a) as follows:

ITEM (1) — ADDRESS OR LOCATION

The house number, street, and city are shown; or if none, the county is named with an explanation of how to locate the property by road names, directions, and distances from cities and crossroads or other conventional landmark references.

ITEM (2) — PHOTOGRAPHS

Photographs of each sale property are attached to each market data sheet to provide the reader with a clear picture of the property. This requirement applies to both vacant and improved properties. Machine copy or other facsimile reproductions are not acceptable in either the original appraisal report or in any copy or revised report. Suitable print sizes should be obtained or prints should be trimmed to fit the space on the form. If additional photographs are necessary to illustrate specific details of the property, the photographs are affixed to a blank 8½-inch x 13-inch page. The additional photograph page follows the pertinent market data sheet and is identified by the number of the comparable sale, parcel number, the Appraiser’s name, and consecutive page number.

Photographs are securely fastened to the page with plastic tape along the top edge only. The name of the photographer and the date taken are filled in on the form in the spaces provided.

A small scale plot-plan sketch or the property should be shown in the space under the photograph. Dimensions of the site, road, or street frontages, improvement location with exterior dimensions, alleys, easements, north arrow, photo directional arrow, and any other relevant information are included on the sketch. If insufficient space is provided on the form for an understandable sketch, the Appraiser places the sketch on an additional page with consecutive numbering, and inserts “see next page” on the Market Data form. The additional sketch page is also identified by the number of the comparable sale, parcel number, and the Appraiser’s name.

ITEM (3)

All data is reported as it pertains to the property at the time of the sale. Changes that have occurred since the sale are described under ITEM (5).

ITEM (3)a — ACCESS

Examples: “Unrestricted,” “Restricted direct to frontage road only,” etc. This point may require clarification under ITEM (5).


ITEM (3)c — HIGHEST AND BEST USE

Examples: “Residential,” “Multi-family,” “Commercial,” “Industry,” etc.
ITEM (3)d — ZONING

Zoning on the date of sale is stated in words, not codes including jurisdiction. Example: “Multi-residential, Minimum 7,200 square feet, Pierce County” specifying special requirements such as setback, etc.

ITEM (3)e — DIMENSIONS

Dimensions of the land sold are shown. Example: “Irregular, 1,320 feet frontage x 1,900 feet average depth.”

ITEM (3)f — AREA

Square footage or acres of the sale property are indicated.

ITEM (3)g — SALE DATE

The date of closure of a closed sale; the date of acceptance of an earnest money datum; the dates of exposure on the market for an offering.

ITEM (3)h — PRICE

This is the actual confirmed price at which the property sold. Nonreality included in the sale price is explained under ITEM (5) and the substantiated dollar amount broken down in ITEM (6) with explanation of the source and reliability or the value information on which the breakdown was made.

ITEM (3)i — INSTRUMENT

The type or kind of conveyance is identified (e.g., Warranty Deed, Real Estate Contract, etc.).

ITEM (3)j — TERMS

Any sale terms which were a matter of the seller’s consideration and his acceptance are reported. If the transaction was for all cash (full selling price) to the seller, the word “Cash” is inserted. If the sale was not all cash to the seller, the details are explained. Where the market exhibits a cash equivalency adjustment, it is properly discussed in ITEMS (5) and (7).

If additional space is required to report and explain the terms of the sale, it is reported under ITEM (5) of the market data sheet or on a supplemental page following. Such a supplemental page is identified by the number of the comparable sale, parcel number, Appraiser’s name, and consecutive page number.

ITEM (3)k — EXCISE TAX NUMBER

The serial number of the Excise Tax Affidavit is inserted here.

ITEM (3)l and m — GRANTOR/GRANTEE

Names of buyer and seller are shown the same as they appear on the instrument which gives evidence of the transaction. If insufficient room exists on the form because of an extremely long name, it may be placed under ITEM (5).

ITEM (3)n — CONFIRMED WITH (NAMES/DATES)

Whenever possible, all information concerning a comparable sale is confirmed by personal interview with both the buyer and the seller. The first and last names of the confirmees and the date of confirmation are shown. If the comparable sale is to be accepted as valid evidence of value, it is essential that it be confirmed by interview with either the grantee or grantor. If an unconfirmed sale is used there must be a full explanation
of the attempts to confirm. In this case the Appraiser should at least talk to the broker. In all contacts face-to-face conferences should hold precedence over telephone confirmation.

ITEM (3)a — DATE INSPECTED

The date the sale was inspected is inserted.

ITEM (4) — LEGAL DESCRIPTION

In cases of very lengthy legal descriptions, the legal description used in the county tax rolls may be shown. Tax lot numbers are acceptable.

ITEM (5) — PROPERTY DESCRIPTION

The property is described as it was at the time of the sale, with notations of changes that have taken place since the sale.

ITEM (6) — ANALYSIS

The sale property is analyzed and the sale price of the real property is broken down into all of the elements.

ITEM (6)a — EXTRACTION DATA

The purpose of extraction is to inventory the physical items included in the sale and allocate to them the portion of the sale price attributable to each item.

ITEM (7) — COMPARATIVE ANALYSIS

In a Standard Narrative Form Appraisal Report, the comparative analysis is in the body of the report and ITEM (7) is either left blank or is used for showing the mathematical adjustments of the comparative analysis.

ITEM (8) — Reserved (does not appear on form).

ITEM (8)a — Reserved (does not appear on form).

ITEM (8)b — COST AND DEPRECIATION DATA

Market data analysis is required in various elements of the cost approach to value. For example, accrued depreciation can be estimated from the market by determining the reproduction cost of the sale property improvements and comparing same with the extracted contributory sale price of such improvements.

ITEM (8)c — INCOME DATA

The income and expenses of the comparable properties are studied in order to determine how the income approach to value applies to the property.

B. MARKET DATA MAP

Each appraisal report contains a map of suitable scale on which is shown (by sale number) the location of each “Market Data” cited in the report. The location of the property and north arrow are also shown.

C. SPECIAL INSTRUCTIONS, CHARTS, AND ILLUSTRATIONS

1. When the Appraiser has received special instructions from the Senior Appraiser, a copy of such instructions is inserted.
2. A copy of any specialist's report, legal opinion, etc., is inserted.

3. At the Appraiser's option, or as required by WSDOT, other maps, charts, or illustrations relevant to an understanding of the appraised property and the evaluation are inserted.

4. The Appraiser lists the names of all supporting Appraisers and makes a statement of the extent of their assistance in the appraisal and report.

D. REPORT OF CONTACT WITH OWNER (WSDOT Form 261-013)

This form provides a record of contact and/or attempts to contact the owner(s) of the property. Under "comments" the Appraiser mentions any salient features of the property and any special concerns voiced by the owner at the time or joint inspection. Such factors may or may not influence property value; however, prior knowledge of the owner's concerns may be of aid to the Acquisition Agent.

E. TITLE REPORT

As the final item in the Addenda, the Appraiser includes all appropriate copies of the current title report.
Tab D
Short Form Narrative-Type Appraisal Report

i. Rules

A. In instances where an acquisition involves an uncomplicated evaluation, a Short Form, Narrative-Type Appraisal Report adequately related to comparable sales may fulfill the requirements of WSDOT. The Short Form, Narrative-Type Appraisal Report presents only the market data approach to value. Documentation and support is accomplished with a minimum of narrative. Note: The Short Form, Narrative-Type Appraisal Report is to be used only upon the written instruction of the Senior Appraiser.

B. In instances of total acquisition, a total property to total property comparison is acceptable without the inclusion of comparable sales in support of the breakout or land value. It is incumbent upon the Appraiser to be sufficiently familiar with land values in order to make a reasonable allocation of value between land and improvements on page 2 of the appraisal report.

C. With the exception of the Market Data map, and the title report, each page required in the Short Form, Narrative-Type Appraisal Report is a printed form furnished by the District RESM. The format should be used if the printed form itself does not provide adequate space, however. The printed forms are listed as follows:

Page 1, Certificate of Appraiser (WSDOT Form 261-015).
Page 2, Summary of Conclusions (WSDOT Form 261-016).
Page 3, Photographs of All Principal Improvements and/or Features Affecting Value (WSDOT Form 261-017).
Page 4, Short Form Appraisal Report (WSDOT Form 261-018).
Page 5, Short Form Report-Remainder Valuation (WSDOT Form 261-019).
Page 6, et. seq., Addenda (Items F through K below).

ii. Procedures

The Appraiser completes the report as follows:

A. Page 1, Certificate of Appraiser (WSDOT Form 261-015) is completed as set forth in Appendix 4-1, Page C-5, Certificate of Appraiser.

B. Page 2, Summary of Conclusions (WSDOT Form 261-016) is completed as set forth in Appendix 4-1, Page C-7, Summary of Conclusions.

C. Page 3, Photographs of All Principal Improvements and/or Features Affecting Value (WSDOT Form 261-017) is completed as set forth in Appendix 4-1, Page C-7, Photographs of all Principal Improvements and/or Features Affecting Value.

D. Page 4, Short Form Appraisal Report (WSDOT Form 261-018). Insert the data for each ITEM in the spaces provided:
ITEM (1)

The name(s) of the owner(s) of the parcel being appraised are listed including those names in the title report. Where certain parties are contract purchasers, so indicate.

ITEM (2)

The address of the property being appraised is shown. If an address is nonexistent or does not readily reveal a specific geographical location (as in the case of a rural postal route or box number), the location of the property is described by reference to names of streets, roads, highways, and distances from describable landmarks.

ITEM (3)

The date of the title report under which the appraisal assignment was made is inserted.

ITEM (4)

All transfers of the subject property having occurred in the previous five years are shown and a brief narration is given of the relationship to market value at the time of each sale. Any physical changes to the property, (e.g., additional construction, remodeling, etc.) which may have occurred in the period between sales and since the date of the last sale and date of evaluation are briefly described and the probable effect upon market value is indicated. If more than one sale has occurred, an explanation is given for any change in price which did not result from physical changes (e.g., contract terms vs. cash sales, change in neighborhood development, changes in general economics, etc.). If the sale is indicative of value, an analysis is included as is any other comparable sale. Should the recorded sale not reflect market value, a brief explanation is given. For example: “Sale does not reflect market value. Purchaser was son-in-law of seller.”

Just above the heading for Item (5)a, the Appraiser references the neighborhood description contained in the True Cost Estimate by inserting the sentence: “Neighborhood description dated contained in True Cost Estimate.”

ITEM (5)a

The property description given here is brief giving information not shown on Page 3 of WSDOT Form 261-017. Give the age, size, quality of construction and condition of the improvements, zoning, highest and best use, and any other feature of the property that would affect value.

ITEM (5)b

The Appraiser describes the property rights to be acquired; e.g., the fee interest to a portion, or total of, the real estate; easement; restrictions of access; etc.

ITEM (5)c

The effects of the proposed acquisition are briefly described: e.g., “The acquisition of 2,000 square feet from the street front portion of the site will leave a remainder site of 8,000 square feet, with the right of way line 30 feet from the nearest corner of the dwelling. No damage to the remainder.”

ITEM (5)d1

The indications of value shown under (7) of the Market Data (WSDOT Form 261-020) are briefly correlated to a final indication of land value. In a Project Appraisal Procedure, a comparative analysis of each sale is also required here (see Tab F).
ITEM (5)d2

The indications of value shown under (7) of the Market Data (WSDOT Form 261-020), are briefly correlated to a final indication of whole property value. In a Project Appraisal Procedure, a comparative analysis of each sale is also required here (see Tab F).

ITEM (6)

Items of damage which do not require additional comparable sales or reanalysis of sales for measurement (such as cost to cure) are itemized and explained, e.g.: “A new septic tank and drainfield will be required to make the dwelling functional. Cost per attached bid: $1,500.”

E. Page 5, Short Form Report-Remainder Valuation (WSDOT Form 261-019) is used in the appraisal only if an additional set of comparable sales or a new correlation of sales is required to support the remainder value. (Note: If unit value of remainder is unchanged from the before valuation, a summary of the remainder value is made on page 2, only.)

ITEM (7)

Describe any factors that will affect the value of the remainder and which are not shown in the photographs or sketch on DOT Form 261-017; e.g., neighborhood changes, relation to the new facility, grade changes, access, probable zoning, highest and best use, and any other factor affecting the value.

ITEMS (8) and (9)

The indications of value as shown under (7) of the Market Data (WSDOT Form 261-020) are briefly correlated into a final indication of remainder land and whole property value. For Project Appraisal Procedure see (5)d1 and (5)d2 above, and Tab F.

ITEMS (10) and (11)

Damages and/or special benefits are explained, supported, and allocated. Page 6, et. seq., Addenda (Items F through K below).

F. The Market Data (WSDOT Form 261-020) is completed as required in Appendix 4-1, Tab C, Part ii, SECTION V, except that the comparison and adjustments as needed to produce an indication of value (in dollar amounts) are inserted in (7).

G. A Market Data map is included in each appraisal, following the last Market Data form. The map should be of a scale which clearly shows, by sale number, the location of each Market Data in the report, the location of the subject property, and a north arrow.

H. A copy of the contract or assignment form which authorizes use of the Short Form, Narrative-Type Appraisal is included in the Addenda.

I. If supporting appraisers or legmen were used, a statement is included in the Addenda which gives their names and the extent of their assistance; e.g., “John Smith acted as photographer and cartographer.”

J. A Report of Contact with Owner (WSDOT Form 261-013) is completed as described in Appendix 4-1, Page C-22, Para. D.

K. A copy of the title report (PC & Spcs) is included as described in Appendix 4-1, Page C-23, Para. E.
Tab E  
Minimal Value Appraisal Report

i. Rules

The Minimal Value Appraisal Report (WSDOT Form 261-036) is authorized for simple acquisition appraisals where the estimated total compensation is $7,500 or less. The District RESM will only assign this format to appraisals of a less complex and straightforward nature. Appraisals involving severance damages, special benefits, proximity damages, and other complex issues will not use this format. The brevity of this format does not relieve the Appraiser from the responsibility for researching the market and developing sound value conclusions; nor does it diminish the need for building an adequate file of information and market data which might become essential in a future action such as condemnation.

ii. Procedures

A. Page 1, Certificate of Appraiser (WSDOT Form 261-015) is completed in accordance with Appendix 4-1, Page C-5 SECTION 1.

B. WSDOT Form 261-036 (Front) is completed as follows:

ITEM (1)
Owner’s name and address are listed.

ITEM (2)
Location of the property is shown by street address or described by reference to streets, roads, highways, and/or distances to landmarks.

ITEM (3)
Zoning is described, including minimum site sizes; if not zoned, state “none.”

ITEM (4)
The most recent title report date and supplemental date are shown.

ITEM (5)
The present use of the property is described.

ITEM (6)
The highest and best use is stated.

ITEM (7)
The purpose of the appraisal is already stated and does not need to be filled in.
ITEM (8)

Where other than fee simple rights are to be acquired, cross out “Fee simple” and add “easement,” “permit,” etc. When both fee and other rights are to be acquired, retain “Fee simple,” slating area and add “easement,” etc., stating area.

ITEM (9)

Any sales of the property during the past five years are listed with a brief statement as to whether it was a market sale; if not market, state why. If a market sale, attach WSDOT Form 261-020.

ITEM (10)

The date of the neighborhood description is inserted and its location (e.g., “True Cost dated....”) is stated. In some cases the neighborhood description is located in another appraisal; if so, state the appraisal parcel number and its project title.

ITEM (11)

Narratively describe the property’s physical features including all elements that might relate to marketability (e.g., access, size, utilities, location, and economic factors), improvements, if any, and an explanation if highest and best use is different from the zoning or present use.

ITEM (12)

Under “Acquisition and Effects,” narratively describe any improvements in the take. Also included here are any descriptions of construction items or minor costs to cure that may be necessary.

ITEM (13)

“Brief Description of Remainder” is a narrative explanation of how the remainder property differs from the “before property” (width, size, shape, access, etc.). If there were minor costs to cure mentioned in Item 12, the remainder here is described as cured.

ITEM (14)

Listed are the sale numbers of Market Data (WSDOT Form 261-020) supporting the estimate and circled is the location of said; also circled is “cost to cure” if applicable. If sales are designated from a different parcel appraisal, state the parcel number and its project title.

When using the Minimal Value Appraisal Report in a project appraisal package, the addenda to said package shall contain the Market Data (WSDOT Form 261-020) for all sales, the neighborhood description, a sales vicinity map, cost to cure estimates, etc.

ITEM (15)

“Summary of Acquisition:” The taken land area(s), taken improvement(s), and cost to cure damages are identified and tabulated; these all are added together get a total estimated compensation.

ITEM (16)

The Appraiser signs and dates the form; inserts the date of the last property inspection as the “value date;” and inserts the parcel number.
Tab F
Project and Strip Appraisal Procedures

I. Project Appraisals

i. Rules

A Project Appraisal is a process which consolidates a related group of individual parcel appraisals in order to prevent duplicating Addenda items such as Market Data (WSDOT Form 261-020), sales maps, neighborhood descriptions, general exhibits, assignments (WSDOT Form 261-007) and/or contracts, trend studies, etc. Use of this method also promotes consistency and efficiency. The format used in project appraisals can be either the Short Form Appraisal Report (WSDOT Form 261-018) or the Minimal Value Appraisal Report (WSDOT Form 261-036) as long as each parcel is separately appraised and the procedures required for each normal is followed. This procedure must be authorized on the assignment (WSDOT Form 261-007) which will be included as a part of the Project Appraisal Addenda.

ii. Procedures

A. The Appraiser conducts a market investigation and prepares Market Data (WSDOT Form 261-020) as described in Appendix 4-1, Page C-18, Section V. These data will be referred to by number, as applicable, in formulating the indications or value in each parcel’s appraisal report.

B. The Appraiser prepares a vicinity map showing the locations of all the data as well as the project.

C. The Appraiser prepares a narrative neighborhood description discussing its uses and trends, economic factors, the proposed project, the general effects or the acquisitions, etc.

D. The Appraiser completes an appraisal or each parcel as required in either Tab D (Short Form Appraisal Report) or Tab E (Minimal Value Appraisal Report) or Appendix 4-1. For those parcels using the short form format, comparative analyses and correlations or the sales cited are included in the body of each report.

E. The Appraiser completes any trends, damage, or cost studies needed for use on any of the appraisals in the Project Appraisal.

F. The completed project appraisal report is assembled as follows:

1. Each parcel’s individual appraisal report includes Certificate of Appraiser (WSDOT Form 261-015) = page 1, etc., and those items required for each respective appraisal formal.

2. The general addenda attached to the appraisal packet.

II. Strip Appraisals

i. Rules

Occasionally, strip takes for road widenings will occur where no major improvements are affected and there are no complex severance damages nor any special benefits to the remainder parcels. In these cases the takes themselves may be appraised rather than complete “before” and “after” evaluations; these appraisals are termed “Strip Appraisals.” The format used may be either the Short Form Narrative or the Minimal Value Form. The only instances of damage that allow use of the strip appraisal method are:
A. Simple cost to cure damages such as fence or driveway replacement, etc.

B. Simple damages due to loss of land take’s utility when the taking is a permanent easement.

C. Simple damages due to temporary loss or land take’s utility when the taking is a temporary construction permit or trespass.

Use of the Strip Appraisal does not relieve the Appraiser from the responsibility for thoroughly researching and analyzing the market in developing value conclusions. Neither does it diminish the need for building an adequate file of information and market data which might become essential in future actions such as condemnation. Nor does it allow the Appraiser to neglect data comparison of the subject to the “larger parcel.”

ii. Procedures

A. Short Form Formal:

1. Page 1, Certificate of Appraiser (WSDOT Form 261-015) is completed per Appendix 4-1, Part IIC, Tab C, Part ii, Section I, Page 1; except that the “before” and “after” values are left blank and “Strip Appraisal” is inserted after the “VALUE DIFFERENCE” amount.

2. Page 2, Summary of Conclusions (WSDOT Form 261-016) need only be completed in the “acquisition section” and the “damages” section (when appropriate).

3. Page 3, Photographs of All Principal Improvements and/or Features Affecting Value (WSDOT Form 261-017) is completed per Appendix 4-1, part IIC, Tab C, Part ii, Section I, Page 3.

4. Page 4, Short Form Appraisal Report (WSDOT Form 261-018) is completed per Appendix 4-1, Part IIC, Tab D, Part ii, with the additional information added to item 5c that states the appraisal problem is a strip taking, necessitating a strip appraisal. Only the affected improvements are evaluated per their contributory value in item 5d. Any damage items are discussed and supported in Item 6.

5. Report of Contact with Owner (WSDOT Form 261-013) and all Addenda items required per Appendix 4-1, Part IIC, Tab D, Part ii, Items F through K are attached.

B. Minimal Value Appraisal Report Format:

1. Page 1, Certificate of Appraiser (WSDOT Form 261-015) is completed per Appendix 4-1, Part IIC, Tab C, Part ii, Section I except that the “before” and “after” values are left blank and “Strip Appraisal” is inserted after the “VALUE DIFFERENCE” amount.

2. The rest of the report uses the Minimal Value Appraisal Report (WSDOT Form 261-036) as per Appendix 4-1, Part IIC, Tab E, Part ii, Items B through F; with the additional statement in “Acquisition and Effects” on said form explaining the appraisal and method as a strip evaluation. Any damage items are discussed and supported in “Brief Description or Remainder.”
Part III — (Reserved)
Part IV — Revision of Appraisal Reports

A. Rules

1. The Director, Real Estate Services (DRES) retains a complete appraisal report concerning each parcel being appraised for the acquisition of right of way. All corrections or revisions to an appraisal are made by correction pages or supplemental sheets. All replaced pages from the original appraisal are retained in both headquarters and district parcel files. Replaced pages are removed from the Appraisal, marked VOID and fastened to the back of the revised appraisal report.

2. The Senior Appraiser requests a revision by letter for the purpose of:
   
a. Reconciling the date of evaluation to the date of acquisition in the following circumstances:
      
      (1) Delayed negotiations, when District Real Estate Services Manager (District RESM) has reason to believe the previous evaluation does not reflect just compensation at the time of negotiations.
      
      (2) Trial in Superior or Federal courts.
   
b. Obtaining correction to a previous evaluation, necessary because of Appraiser’s errors, omissions, or oversights.

3. The Senior Appraiser executes a new Personal Services Contract (WSDOT Form 260-004) when:
   
a. Revised right of way plans nullify the previously reported value evidence.
   
b. Legal instructions from the Attorney General Division nullify previous value evidence.
   
c. There is a new evaluation premise.
   
d. There are additional appraisal requirements.

4. A revision or correction of an appraisal report is made only by the Appraiser who developed the initial report.

5. In condemnation cases, when the court has set a definite date for trial, notice of the trial date is furnished by the Attorney General Division to the district and to headquarters. The assigned Appraiser(s) whose appraisal(s) has been approved for negotiations is directed by assignment or contract to update his appraisal and submit the revision to the Senior Appraiser no later than 45 days prior to the scheduled trial date.

6. All revisions for trial purposes are date-stamped upon receipt in district, and the original is immediately transmitted to the Appraisal Program Manager.

7. All written requests for a revision should give the reasons for the revision. A copy of the request is immediately forwarded to the DRES (Appraisal Program Manager).

8. The due date of a revised appraisal is set out in the contract or letter.

9. The Appraiser delivers the original and the number or copies specified by the contract of a revised appraisal report or correction or supplemental sheets to the Senior Appraiser.

10. A revised appraisal report nullifies the evaluation of the initial report and all prior revisions.
11. Compensation for the revision requested by the department is set forth in the *Personal Services Contract* (WSDOT Form 260-004).

12. WSDOT is not obligated to pay for a revision to an appraisal which has not been authorized by contract.

B. Procedures

1. Upon receiving an assignment to update or revise, the Appraiser:
   a. Contacts the Senior Appraiser to achieve a mutual understanding of the necessity to update and/or revise the prior appraisal report.
   b. Acquires the current information concerning the right of way plan, construction features, title information, appraisal premise, and legal opinions pertinent to the appraisal.
   c. Reexamines the market for all sales, rents, leases, costs, or other information that may be pertinent to the current evaluation.
   d. Reexamines the parcel being appraised to ascertain current physical property conditions, fee interests, and property rights.

2. If investigation produces market data that changes the prior evaluation, the Appraiser submits the pertinent information in accordance with this *Appraisal Guide* (Appendix 4-1), either as a completely new appraisal or as correction and supplemental sheets to be incorporated into the prior appraisal. The Appraiser sets forth the reasons for the revision in “Purpose of Appraisal.”

3. Revisions made by corrections or supplemental sheets may use any and all sheets of the previous appraisal that remain pertinent to the appraisal. All correction and supplemental sheets are identified by showing the revision number in conjunction with the page number. For example: page 1, *Certificate of Appraiser* (WSDOT Form 261-015), would, of necessity, require a corrected page. The correction would be indicated after the page number by typing "Revised" and the date of the revision. The same procedure is required on all corrected and supplemental pages.

4. Appraisal revisions submitted as a completely new appraisal report do not require the notation “Revision” to be typed after the page number since the prior appraisal report will be stamped “See Revision Dated ...” to indicate there is a revised appraisal report.

5. Where the examination of the market indicates that no change or the previous evaluation is evident, the Appraiser informs the department of findings by letter addressed to the DRES and marked to the attention of the Senior Appraiser. The date of evaluation then becomes the date of the validating letter. The validating letter will be attached to a revised *Certificate of Appraiser* (WSDOT Form 261-015).

6. Upon receipt of a revised report, correction pages, supplemental pages, or updating letter, the District RESM immediately date-stamps the report, and submits the original to the DRES.
Appendix 4-2
Estimates

4-2 General

The purpose of this appendix is to provide an example of a Location-Design Estimate (Recon) and a True Cost Estimate (WSDOT Forms 261-006 and 261-006A).

4-2.1 Sample Location — Design Estimate

DATE: July 1, 1986
FROM: John Smith
TO: Ed Brown, District Administrator
SUBJECT: Proposed Project SR 5, Wiley Road to Henry Boulevard Project #90054A; FA #1-54(29)606; L #9489

Location — Design Estimate

Please be advised that total expected right of way costs for the above project are $200,000. This estimate is based on incomplete/preliminary engineering and title data, and is therefore subject to change as more accurate information becomes available.

4-2.2 Sample True Cost Estimate

A. This section of the Appendix shows an example of the True Cost Estimate in the “hard copy” form. The following abbreviations are used:

1. Columns 2 and 3 entitled “Present Use” and “H&B Use.”
   A = Agriculture
   B = Commercial or Income
   C = Industrial
   N = Nonprofit Organization
   R = Residential
   RC = Recreational Area
   T = Timber, Timberlands, Reforestation
   V = Vacant (not used in Column 3)
   W = Water, Aquatic Lands

2. Columns 3 and 4 entitled “Imps: Present and To Acquire.”
N = None
Y = Yes Major; e.g., buildings
S = Minor; e.g., landscape, fence, signs

3. Column 6 entitled “Type of Acquisition”
   A = Access Rights Only
   P = Partial Acquisition in Fee
   T = Total Acquisition in Fee
   OP = Partial Acquisition in Other Than Fee
   OT = Total Acquisition in Other Than Fee

4. Column 9 entitled “Type of Report:”
   E = Exempt (no appraisal needed)
   L = Long Form (standard narrative)
   M = Minimal Form (WSDOT Form 261-036)
   S = Short Form (WSDOT Forms 261-018 and 261-019)

B. True Cost Example:

October 21, 1986

FROM: John Smith
TO: Ed Brown, District Administrator
SUBJECT: SR 5, Wiley Road to Henry Boulevard
          Project 90054A; L-9489; FA# 1-5-4(29)606

True Cost Estimate
List No. 1

The attached True Cost shows that total right of way costs needed for this project are $172,113.
JS: mh
Attachment
cc: (as specified in 4-2.2C)

Change 24 II-2
M 26-01
Neighborhood Description  
Dated October 21, 1986  
For: SR 5, Wiley Road to Henry Boulevard  
FA# I-5-4(29)606

The project neighborhood is locally termed Westlake. It is a bedroom area of Pierce County for commuters who work in Tacoma, South Tacoma, and the Fort Lewis/McChord Military Bases. Population is about 10,000, and the character of use is primarily single family residential on subdivision lots and rural type ranchette sites of 2 to 10 acres. The entire area is zoned residential, three units per acre, single family, although some spot zoning for neighborhood commercial is evident at key arterial corners. Utilities serving the area are public power, phone, and county water; sewage is by individual septic systems, but percolation is generally adequate. The neighborhood trend is for slow, steady change to single family subdivisions and the disappearance of the larger ranchette uses. The major arterial serving the area is existing SR 5, a two-lane connector state highway.

The proposed project is a widening from two lanes to fours lanes of SR 5 for about two blocks between Wiley Road and Henry Boulevard. This would facilitate easier commuter traffic to and from said feeder arterials during the rush hours. A traffic signal is planned at the Henry Boulevard intersection.

Existing rights of way will be utilized for the project where sufficient. However, six parcels will be affected by the project where additional right of way is needed: Three homes, one farm, one vacant ownership, and one convenience store. The taking from the convenience store hits the outer gas dispenser island and canopy; one residence’s septic drain field is partially in the take; one residence is totally within the take; the farm has a large irrigation system partially in the take; the other takings are strip-type acquisitions with minimal improvement items in the take.

The proposed project will take about one year to complete. No special benefits to abutting parcels are anticipated since zoning should remain the same for the foreseeable future.
Value Finding Evidence  
For True Cost Dated October 21, 1986  
On: SR 5, Wiley Road to Henry Boulevard  
FA# I-5-4(29)606

<table>
<thead>
<tr>
<th>Sale Date</th>
<th>Price</th>
<th>Reference</th>
<th>Size</th>
<th>$/Unit</th>
<th>Location</th>
<th>Remarks</th>
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</thead>
<tbody>
<tr>
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<td>$75,000</td>
<td>85080125</td>
<td>10 Ac</td>
<td>$7,500/Ac</td>
<td>SE SE Sec 4</td>
<td>Zoned Res.</td>
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<td>1-86</td>
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<td>5 Ac</td>
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<tr>
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<td>86030004</td>
<td>15,000 SF</td>
<td>.40/SF</td>
<td>1700 Blk Wiley</td>
<td>Zoned R-12,000</td>
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<tr>
<td>4-86</td>
<td>6,250</td>
<td>86041119</td>
<td>12,500 SF</td>
<td>.50/SF</td>
<td>1700 Blk Wiley</td>
<td>Zoned R-12,000</td>
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</tbody>
</table>

Ranges: For parcel 9-04102 (7 Acres), range is $7,500 to $10,000/Ac.

For parcel 9-04106 (14,000 SF), range is $0.40 to $0.50/SF.

J. Smith, Appraiser

4: M: RES3
Chapter 5
Appraisal Review

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5-1 General

Appraisal review is a headquarters function performed by designated Review Appraisers. All appraisals of real property and property rights to be acquired for or sold by WSDOT are reviewed by a qualified Review Appraiser before negotiations are started.

5-2 Responsibilities

5-2.1 Appraisal Program Manager

The headquarters Appraisal Program Manager’s responsibilities include:

A. Assignment of appraisal reviews to designated Review Appraisers.

B. Resolving controversial appraisal review problems, except that the manager may not intercede in, or alter a Determination of Value (DV) (WSDOT Form 261-023) made by a Review Appraiser.

C. Monitoring designated Review Appraisers to ensure the uniformity and quality of appraisal reviews. This is done through spot check field and procedural reviews; also, by obtaining corrected, missing, and/or additional data, and requesting corrective action on DVs.

D. Interpreting the intent and meaning of the appraisal review requirements when questions arise.

E. Determining and approving “just compensation” for those parcels on which the manager acts as Review Appraiser.

5-2.2 Review Appraiser

The Review Appraiser regards an acceptable appraisal as an important consideration in the completion of the DV and the appraiser as a consultant and market analyst. The review process establishes the approved “just compensation!” (See Section 5-5.1C11).

A. All appraisals are reviewed to:

1. Ensure that appraisal reports contain or reference sufficient information (e.g., studies or other previously submitted appraisals) to support the conclusions of the report; also, that appraisal reports conform to established appraisal practices and WSDOT requirements as described in the Appraisal Report Guide (Chapter 4, Appendix 4-1).

2. Ensure that the appraisal is equitable and that the property owner will be receiving “fair and just” compensation in accordance with the Real Property Acquisition Act (RCW 8.26), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and current eminent domain law.

B. The Review Appraiser may use a method of review that takes into consideration valuations of other properties on the project.
C. The Review Appraiser establishes the "just compensation" (usually fair market value) of the property and/or property rights and reports the compensation on a Determination of Value (DV) (WSDOT Form 261-023). This DV may be revised anytime prior to final settlement to reflect later evaluation evidence, a property owner’s appraisal, or highway plan revisions. All DVs are documented and retained in the parcel file, and input is made to REAMS.

5-3 Preliminary Procedures

5-3.1 Preliminary Review

All projects consisting of significant numbers of parcels and/or complexity are inspected and reviewed prior to submitting true cost estimates for authorization and funding.

This is done to save time and effort in the appraisal and negotiation stages. An inspection team consisting of a district appraisal representative (supervisor, senior appraiser or staff journeyman appraiser), a Review Appraiser, and a relocation agent (when applicable) identifies the following:

A. Special types of appraisals and the need for specialists, consultants.

B. Environmental and shoreline management problems.

C. Public or semi-public agency parcels and railroads.

D. A need for legal opinions.

E. A need for plan modifications and revisions to avoid or mitigate damages.

F. "Uneconomic remnants" and possible trade or exchanges for surplus properties or excess right of way.

G. A need for copies of leases which would establish the ownership of buildings, structures, and other improvements as real property, for appraisal and acquisition purposes.

H. Items that will be appraised and acquired as realty fixtures.

5-3.2 Nominal Payment Acquisitions

See Section 5-5, Determination of Value (DV).

5-3.3 Desk Review

The Review Appraiser “desk reviews” all appraisals of each parcel to assure proper project and parcel identification, adequate response to the assignment, application of proper technique, completeness, and mathematical accuracy. The Review Appraiser may make a working copy of the appraisal report, but makes no marks on the agency copies.

5-3.4 Field Review

The Review Appraiser examines the subject property in the field and the market facts on which conclusions of value depend. Appropriate sources (buyers, seller, brokers, public records) are contacted to verify statements of fact, the adequacy of the market search, and the appraiser’s understanding of the impact of the WSDOT plan on the subject property. The Review Appraiser may contact other sources of information to establish parameters of value, or to determine whether additional expertise is required to assist the appraiser in completing an acceptable report.
5-4 Analysis of Appraisal Reports

5-4.1 Requirements

The Review Appraiser analyzes the appraisal report to assure that the report:

A. Conforms to the requirements of:
   1. The Appraisal Report Guide (Chapter 4, Appendix 4-1).
   2. The Appraisal Contract (Personal Services Contract, WSDOT Form 260-004) or the Staff Appraiser Assignment Form (WSDOT Form 261-007).
   3. Any special instructions.

B. Clearly states the appraisal problem as influenced by the WSDOT’s project.

C. Incorporates specialists’ opinions (e.g., value of timber, fixtures, etc.) as they contribute to the value of the whole property, rather than as arbitrary additions to the value of the real property. In the case of tenant-owned real estate (building structures and/or other improvements), the specialists’ opinions of value are to reflect two premises: (1) Contribution value to the whole property; (2) Value for removal (orderly liquidation value).

D. Clearly presents:
   1. An explanation of the appropriate evaluation principles.
   2. The market evidence and/or other supporting evidence.
   3. A list of items considered part of the reality as well as further comments on items that might be in a “grey” area — e.g., drapes, dishwashers, stoves, special light fixtures, etc., when applicable; or building structures or other improvements to be added to the appraisal.
   4. The value estimate.

E. Excludes noncompensable items.

F. Neither omits nor contradicts any factual data that was available to the appraiser.

G. Contains no conflicting statements or erroneous conclusions.

5-4.2 Minor Deficiencies

In the case of minor deficiencies in the appraisal report, the Review Appraiser:

A. Makes no marks or changes in the appraisal report.

B. Does not delay arriving at a DV.

C. Makes notation of the following types of errors on an IDC, sends the IDC to the District Real Estate Services Manager (District RESM) (or Senior Appraiser) and on the DV notes: “See IDC dated________.”
   1. Mathematical errors.
   2. Project identification data.
3. Parcel numbers.
4. Owner’s name.
5. Parties to the transaction, excise tax number, and date of purchase for either sales of the subject property or comparable sales.
6. Location, zoning, or present use of either the subject property or of comparable sales.
7. Nonconformance with the Appraisal Report Guide (Chapter 4, Appendix 4-1) and/or departmental standards.

5-4.3 Major Deficiencies

A. Major deficiencies are usually found in the following areas: analysis, reasoning, and conclusions. When the Review Appraiser finds that the appraisal report needs clarification or contains substantive errors, the following actions are taken:

1. Prepares an IDC stating the critical deficiencies or the need for clarification.
2. Transmits the original of the IDC to the District RESM and retains the review copy of the appraisal pending receipt of corrections or revisions.
3. Attends appraisal conferences as necessary and/or advises the District Senior Appraiser.

B. The District RESM after examination of the IDC and a file copy of the appraisal report:

1. Confers with the Review Appraiser, the District Senior Appraiser and/or other affected personnel as needed.
2. Forwards the appraisal report by IDC to the staff appraiser or by letter to the fee appraiser with directions necessary to produce an acceptable appraisal report.

5-4.4 Rejection

A. If, having taken the actions specified in Section 5-4.3, an acceptable report is still not obtained, the Review Appraiser completes an Appraisal Rejected form (WSDOT Form 261-035) and submits it to the Appraisal and Appraisal Review Supervisor.

B. The Appraisal Program Manager reviews the appraisal report and the “Appraisal Rejected” form. If the Appraisal Program Manager has acted as the Review Appraiser, this function will be performed by the Acquisition Program Branch Supervisor. The Appraisal Program Manager or the Acquisition Program Branch Supervisor, as appropriate, either:

1. Upon concurrence:
   a. Signs and dates the Appraisal Rejected form.
   b. Attaches the original of the Appraisal Rejected form to the original of the appraisal report, and places them in the headquarters parcel file.
   c. If the appraisal is on a federal-aid project, sends the second copy of the Appraisal Rejected form to the FHWA Division Administrator’s office.
   d. Returns the remaining copies of the Appraisal Rejected form to the District RESM.
2. Upon nonconcurrence returns the Appraisal Rejected form to the Review Appraiser with a memo (IDC) attached stating the actions to be taken.

C. The District RESM (or Senior Appraiser) reviews the Appraisal Rejected form and:
   1. Takes action as specified in Appendix 4-1, Section IV and sends a written notice to the appraiser stating the reasons for the rejection. A copy of the notice is placed with the appraisal report in the parcel file.
   2. Initiates action to secure an acceptable appraisal report from a different appraiser.
   3. Prepares a report for the appraiser’s evaluation file.

5-4.5 Owner’s Appraisal Report

A. If the property owner submits an appraisal report — whether self-made or from any other source — the Review Appraiser reviews it disregarding the report’s format and takes the following actions as appropriate:
   1. If the owner’s appraisal report or any part thereof presents useful value information:
      a. A new DV is prepared using the procedures specified in Section 5-5 below.
      b. Copies of the owner’s appraisal report are distributed in the same manner as if the report had been prepared by or for WSDOT.
   2. If the owner’s appraisal report does not present significant new value information:
      a. The Review Appraiser makes no copies of the owner’s appraisal report. It is WSDOT policy not to make copies of an owner’s appraisal report in this situation.
         The Review Appraiser returns the owner’s appraisal report to the District RESM together with an IDC identifying the parcel and the project (number and title), and stating:
         (1) The appraiser’s name.
         (2) The date of the owner’s appraisal report.
         (3) The value reported.
         (4) The reasons for not preparing a new DV based on the owner’s appraisal report. It is incumbent on the Review Appraiser to state the specific reasons for rejecting the owner’s appraisal report so the owner will know why the appraisal was rejected.
      b. The District RESM assures that the owner’s appraisal report is returned to the owner through the District Real Estate Services Negotiator with a letter which clearly states the reasons why the report was unacceptable as a basis for a revised offer.

5-5 Determination of Value (DV) — Preparation/Distribution

5-5.1 Normal Preparation/Distribution

A. Upon receipt of the Review Appraiser’s copy of the appraisal report(s) and as a result of the Review Appraiser’s evaluation of all available market value evidence, a Determination of Value (DV) (WSDOT Form 261-023) is prepared. Minimally, this includes:
   1. A desk review as specified in 5-3.3.
2. A field review as specified in Section 5-3.4.

3. One acceptable appraisal report. More than one acceptable appraisal report may be required by the Review Appraiser prior to the review if the proposed acquisition is complicated, or of a controversial value nature.

4. A comparison of values to guarantee consistent value patterns between similar parcels on the project.

B. The Review Appraiser fills in the following data on the DV:

1. The number of the DV for this parcel (e.g., 1, 2, etc.).

2. The Review Appraiser’s name.

3. The project and parcel identification data taken from the Right of Way Plan. When a prior acquisition from the same property has been completed, the parcel number(s) of the prior acquisition is inserted on the DV above the new parcel number by adding the following text:

   “Prior Acquisition Parcel No.__________.”

4. The appraisal history which includes all appraisals made for WSDOT and all appraisals submitted by the owners that have been used as a basis for value determination.

5. The appraisal review history which includes all prior DVs.

C. In the center section of DV #1, the Review Appraiser includes a narrative stating:

1. The extent of the Review Appraiser’s inspection of property and sales, including confirmations.

2. The adequacy of the property description in both the “before” and “after” situations.

3. The differences between appraisals, if more than one appraiser was used, or if there is an appreciable change in value between an original appraisal and a later updating.

4. A range of market evidence and whether the appraiser’s conclusions fall within the range.

5. A statement of concurrence with the application of market evidence and final conclusions.

6. Whether the appraisal follows special instructions and whether it contains copies (if required) of specialists’ reports.

7. “Before” and “after” values except for noted minimal and strip appraisals.

8. An allocation of the value for the subject land and the improvements is shown, or referenced to an appraisal report sheet, for the “before” and “after” situations. Totals of “before” and “after” values should be rounded to reflect what normal real estate transactions would do. The difference between the “before” and “after” values equals just compensation except when the special benefits exceed the acquisition plus damages. Buildings acquired are individually identified. Fixtures appraised as real estate are identified. Buildings, structures, signs, and other improvements owned by tenant/lessee are so designated. The just compensation due the tenant/lessee for said items is determined by the Review Appraiser at the higher of the two valuation premises as defined in Section 5-4.1C.

9. If the appraisal and DV cover two or more parcels, an allocation of the just compensation is made on an attached exhibit to the DV covering each parcel.
10. If an “uneconomic remnant” is involved, see Section 5-5.2 below.

11. Just compensation based on the appraisal(s). Allocation of this just compensation is made to acquisition, damage items, and benefits. If the Review Appraiser is satisfied with the appraisal but comes to different conclusions, the differences are explained and new supporting evidence (if any) is attached to the DV.

12. The amount of the approved just compensation that is eligible for federal participation. If the right of way project does not have federal funds participation, the last sentence on the DV (WSDOT Form 261-023) beginning “I further certify . . .” is crossed out.

13. The date of the approved just compensation, which is the date of the last inspection by either the appraiser or the reviewer. The signature date is the date the Review Appraiser signs the DV and does not precede the date of just compensation.

D.

1. If the Review Appraiser is not satisfied with the appraisal, corrections or a second appraisal may be requested in an IDC addressed to the District RESM. The IDC should include the reasons why the corrections or second appraisal are needed.

2. If in accordance with Section 5-5.1D1 a new DV is prepared, the Review Appraiser:
   a. Numbers each DV for a parcel in sequential order; e.g., DV #2, DV #3, etc.
   b. Fills in the appraisal and review history.
   c. Evaluates all the latest appraisal evidence or map change information.
   d. Gives the justification for the changes on the new DV and references those items which appeared on the previous DV which still pertain to the current DV.
   e. Completes the DV in the usual manner.

E. The Appraisal Program Manager:

1. Routes the original of all DVs to the permanent file.

2. On a federally funded project, forwards one DV copy to the FHWA.

F. The District Senior Appraiser:

1. Forwards one copy of the DV to the District RESM.

2. Forwards one copy of the DV to the District Acquisition Program Supervisor.

3. Enters DV data into REAMS.

5-5.2 Uneconomic Remnant

A. The Review Appraiser determines whether a remainder (or any part thereof) qualifies as an “uneconomic remnant” based upon the following guidelines:

1. An “uneconomic remnant” is a remainder which has little or no utility or value to the owner.
2. A parcel remainder, or part of a severed ownership, should be declared an “uneconomic remnant” even though such was its status before the acquisition because it has been further reduced in utility.

B. The final paragraph on the DV shall clearly identify the “uneconomic remnant,” support its declaration as such, and state its value. This paragraph is underlined or typed in italics.

C. When an “uneconomic remnant’s” value is in excess of $1,500, an informational copy of the DV is transmitted to the Director of Real Estate Services (DRES).

Note: The DV is the acquisition agent’s sole authority to offer to purchase an “uneconomic remnant.”

5-5.3 Surplus Property

When it has been determined that a state-owned real property or property right (including any improvements thereon) has become surplus to WSDOT’s needs, a Surplus Property Report (WSDOT Form 261-005) is prepared as specified in Appendix 4-1. The Review Appraiser:

A. Reviews the Surplus Property Report. Correction of minor deficiencies in the report are made and initialed.

B. Completes the DV in the space provided on the back of the Surplus Property Report as indicated in the instructions thereon.

C. Returns the completed package to the Property Management Program Manager. The Review Appraiser may include by separate IDC: data and explanations if data is weak or insufficient; an indication of a value range rather than a specific value; and recommendations for the means of disposal.

D. If the appraised surplus property right is an access modification, establishes the value of the access rights to be conveyed at no less than $1,500 per WSDOT’s policy for access conveyances in Section 314.08 of the Design Manual (M 22-01).

E. If the surplus parcel is obviously worth $500 or less, the appraisal may be a memorandum cosigned by a Review Appraiser.

5-5.4 Nominal Acquisitions (Minimum Payment Policy)

When notified of project authorization and funding (right of way number) and when the true cost estimate for a parcel is $2,500 or less, the Review Appraiser prepares a DV directly from the true cost estimate. This DV should be for not less than $150 except for railroads when the DV normally shall be for $500 or more.

The required owner contact and offer to accompany the appraiser, if not made during the true cost stage, will be made by WSDOT’s negotiator at the time of negotiation. If WSDOT’s negotiator reports back to the District RESM that the owner is dissatisfied with the offer, the District RESM will determine the next appropriate action to be taken.

5-6 Appraisal Review for Other Public Agencies

Appraisal reports from local public agencies and other state agencies are reviewed for conformance to federal standards and WSDOT operating requirements for validity and support of value conclusions. (See Appendix 4-1, Appraisal Report Guide.) This necessitates that the reports be accompanied by a copy of the appraiser’s contract and a determination that the report has complied with the agency’s appraisal contract. The agency will attach a letter requesting the review, along with:

A. A dated map showing the parcel boundary.

B. The before, after, and/or acquisition areas.
C. Sufficient engineering data to show the effect of the project on remainder properties.

The submitting agency is responsible for obtaining necessary replacements for unacceptable appraisal reports and for obtaining any substantive revisions of inadequate reports furnished to WSDOT by the agency. Requests for appraisal review service of less than WSDOT standards (such as field inspection and independent value conclusions) may be refused and returned to the agency.

5-7 Coordination With the Attorney General, WSDOT Division

5-7.1 Appraisal Program Manager

A. At the request of the Director, Real Estate Services (DRES), assists and advises at conferences with the Attorney General staff.

B. Assures that all appraisals submitted for review by the Attorney General Office are reviewed by a WSDOT Review Appraiser.

C. Assures that priority is given to the review of updated appraisals or other value evidence prepared for scheduled trial dates and submitted for review by the Attorney General Office.

D. When requested by the Attorney General Office, assures that the Review Appraiser transmits a copy of the approved DV to the Attorney General Office no later than 35 days prior to the scheduled trial date.

5-7.2 Review Appraiser

A. At the request of the DRES, assists and advises at conferences with the Attorney General staff.

B. Reviews all written valuation evidence submitted by the Attorney General Office during or after a negotiated or stipulated settlement and:

1. If it is found to be inadequate or inappropriate as a basis for a new DV, the Review Appraiser transmits an IDC to the DRES defining the author (or source) and the date of the evidence and stating the specific reasons why the new evidence is inappropriate. A copy of the evidence will be attached.

2. If the evidence submitted is adequate and appropriate for a new DV, the Review Appraiser prepares a new DV (as specified in Section 5-5), and with evidence attached transmits it to the DRES.

S/M:RES3
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### Chapter 6  
**Acquisition**

#### 6-0 Acronyms

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<td>AG</td>
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<td>Bureau of Land Management</td>
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<td>CS</td>
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<td>Department of Natural Resources</td>
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<td>DRES</td>
<td>Director, Real Estate Services</td>
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<td>D/V</td>
<td>Determination of Value</td>
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<td>EIS</td>
<td>Environmental Impact Statement</td>
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<td>FHWA</td>
<td>Federal Highway Administration</td>
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<td>JC</td>
<td>Just Compensation</td>
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<td>J&amp;D</td>
<td>Judgment and Decree</td>
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<td>NEPA</td>
<td>National Environmental Policy Act</td>
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<td>OAPU</td>
<td>Order Adjudicating Public Use</td>
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<td>OSC</td>
<td>Olympia Service Center</td>
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<td>PFE</td>
<td>Project Funding Estimate</td>
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<td>WAC</td>
<td>Washington Administrative Code</td>
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6-1 General Requirements

6-1.1 Introduction

Section 8.26.010 of the Revised Code of Washington provides the following:

The state shall: (1) establish a uniform policy for the fair and equitable treatment of persons displaced as a result of public works programs of the state and local governments in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole; and 2) encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices. (1971 1st ex.s c240S 1.)

This chapter provides the regulations and procedures which are necessary to carry out these objectives.

6-1.2 Rules

A. Negotiated Purchase — Every reasonable effort shall be made to expeditiously acquire real property by negotiation.

B. Just Compensation — Prior to initiation of negotiations for real property, and/or property rights, the Washington State Department of Transportation (WSDOT) shall establish an amount which it believes to be just compensation. In no event shall such amount be less than the WSDOT’s approved appraisal of the market value of such property. In determining just compensation, any decrease or increase in the market value prior to the date of valuation caused by the public improvement or by the likelihood that the property would be acquired for such improvements, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded.

C. Summary Statement — Upon initiation of negotiations, WSDOT shall provide the owner of real property and/or property rights to be acquired with a written statement of, and summary of the basis for, the amount it has established as just compensation for the proposed acquisition. As a minimum, the summary statement shall include:

1. The amount established as just compensation.
2. A statement explaining that the offer is based either on WSDOT’s review and analysis of an appraisal(s) of such property made by a qualified appraiser(s) or by an administrative procedure.
3. Identification of the real property to be acquired, including the estate or interest being acquired.
4. Identification of improvements and fixtures considered to be part of the real property to be acquired.
5. The amount of just compensation for the real property to be acquired and any amount included for damages to remaining real property shall be separately stated.
D. Occupancy — No legal occupant shall be required to surrender occupancy of real property before: (1) the agreed purchase price is paid; or (2) there is deposited with a court having jurisdiction over such property, for the benefit of parties of interest, an amount not less than WSDOT’s approved appraisal of the market value of such property, or the court’s award of compensation.

E. Coercion — In no event will WSDOT in order to compel an agreement on the price to be paid for the property:
1. Advance the time of condemnation; or
2. Defer negotiations; or
3. Defer condemnation and the deposit of funds in court for use of the owner; or
4. Take any other action coercive in nature.

F. Uneconomic Remnant — If the acquisition of only part of a property would leave its owner with an uneconomic remnant, WSDOT shall offer to acquire the uneconomic remnant.

G. Special Conditions — No payment shall be made to a tenant-owner for any real property improvement unless:
1. The tenant-owner, in consideration for the payment, assigns, transfers, and releases to WSDOT all of the tenant-owner’s right, title, and interest in the improvement; and
2. The owner of the real property on which the improvement is located disclaims all interest in the improvement; and
3. The payment does not result in the duplication of any compensation otherwise authorized by law.

H. Alternative Compensation — Nothing in this section shall be construed to deprive the tenant-owner of any right to reject payment under this section and to obtain payment for such property interests in accordance with other applicable law.

I. Incidental Expense Reimbursement — The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:
1. Recording fees, transfer taxes, excise tax when applicable, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to WSDOT. However, WSDOT is not required to pay costs solely required to perfect the owner’s title to the real property; and
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage or deed of trust entered into in good faith encumbering the real property; and
3. The pro rata portion of any prepaid real property taxes which are allocable to the period after WSDOT obtains title to the property or effective control of it, whichever is earlier.
Whenever feasible, WSDOT shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement.

J. Donations — Nothing in these regulations shall prevent a person, after being informed of the right to receive just compensation based on an appraisal of the real property, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefore, to the state. WSDOT is responsible for assuring that an appraisal of the real property is obtained unless the owner releases WSDOT from this obligation.

K. Civil Rights — The right of way acquisition function shall be conducted in such a way and manner as to assure that no person shall, on the grounds of race, religion, sex, or national origin, be denied the benefits to which the person is entitled, or be otherwise subject to discrimination.

L. Conflict of Interest — The Acquisition Agent may not accept the assignment of a parcel:

1. After having appraised or assisted in the appraisal or review of appraisals on the parcel. If the determination of value is $10,000 or less, the appraiser (but not the reviewer) may act as the Acquisition Agent.

2. If personally acquainted with or related to the property owner where such acquaintance or relationship might tend to influence or prevent acting in an unbiased and professional manner.

3. In violation of the department’s directive on Conflict of Interest and Employment (D 73-26).

M. Relocation Assistance — When the acquisition of right of way requires the displacement of any family, individual, farm, business, nonprofit organization or their personal property, that party or organization may be entitled to payments, separate and distinct from the acquisition compensation, in order to alleviate the costs of moving and replacement housing. Such payments and matters pertaining to eligibility therefor are the subject of Chapter 12 of this manual.

6-2 Normal Preparation

6-2.1.1 Plan Preparation

A. The Region Real Estate Services Manager (RESM) attends all public meetings to provide information as needed. Written information explaining the state’s acquisition and relocation policies will also be available.

B. The Region RESM serves as a member by appointment of the interdisciplinary team to provide information and expertise on such issues as:

1. Route selection.

2. Reconnaissance estimates.

3. Wetlands, cemeteries, gas stations, etc.

6-2.1.2 Project Inspection and Parcel Assignment

The Region REMS ensures that:

A. The Right of Way Plan sheets are accurate with respect to ownership details and rights to be acquired.
B. Authority to purchase the necessary property rights has been received.
C. The project has been physically inspected.
D. The appropriate computer entries have been made.
E. Any remainder whose water supply may be affected by the state’s taking is identified. The procedures given in Chapter 8 are followed.
F. Any recent or pending public improvement assessments are identified.
G. Action is taken in accordance with Chapter 8 to identify and clear utility interests on a project-wide basis.
H. Individual parcel files are prepared which include:
   1. Title report and assessor’s total area.
   2. Appraisal report if appropriate.
   3. Determination of Value (WSDOT Form 261-023) or administrative offer determination.
   4. Salvage Appraisal Report (WSDOT Form 263-003) (if applicable).
   5. Appropriate Right of Way Plan sheet(s).
   6. Relocation Assistance Brochure (if applicable).
   7. Acquisition brochure.
I. The Special Acquisition Manager is notified of any parcels which are to be acquired through Olympia Service Center negotiations.
J. Complete sets of Right of Way Plan sheets are available.

6-2.2 Acquisition Agents Actions Prior to Contact With the Owner

The Acquisition Agent:

A. Adds to the parcel file the Diary of Right of Way Activities — Acquisition.
B. Reviews the title report(s). Checks the description to ensure conformity with Right of Way Plans; determines the action to be taken with respect to each encumbrance; obtains any supplemental title reports which may be necessary through the Region REMS.
C. Studies the appraisal report and the Review Appraiser’s Determination of Value (WSDOT Form 26l-023) or administrative offer determination, taking special note if there are any tenant-owned improvements identified.
D. Studies and investigates all details of the Right of Way Plans as well as the profiles, cross sections, and road approach schedules from the design report for complete familiarity and understanding.
E. Reviews hearing transcript and EIS documents where available.

F. Makes an on-site inspection of the proposed acquisition. Notes evidence of any recent or pending public improvements (because these may cause an assessment). Notes physical access in the before and after situations. Notes any item (e.g., improvements, utilities, etc.) which may have been missed in the title report and/or the appraisal.

G. Coordinates with Relocation Assistance and Property Management as required. If improvements are to be rented back to grantors, follows procedures in Chapter 11.

H. Prepares an appropriate “Offer Letter” in accordance with specific guidelines shown in Figure 6-2.2H. Each letter is individually prepared on region letterhead, error-free. **Note: If the offer is administrative, the offer letter must not say the property has been appraised.**

I. Whenever possible, prepares the instruments and vouchers necessary to complete the transaction (see Section 6-6, and Chapters 9 and 13).

1. Title is acquired by a recordable deed when:
   a. The Right of Way Plan indicates a fee title acquisition.
   b. The parcel owner will be deprived of use of the area to be acquired.
   c. The state is to locate facilities and/or utilities in the area to be acquired.

2. Title is acquired by a recordable easement when:
   a. The Right of Way Plan indicates an easement area.
   b. The parcel owner may derive some use of the area to be acquired.
   c. The state is to maintain the item to be constructed.

3. Title is acquired by a recordable temporary easement when:
   a. The Right of Way Plan indicates a construction area.
   b. The parcel owner:
      (1) Will derive use of the area to be acquired.
      (2) Will benefit from the item to be constructed.
      (3) Will maintain the item to be constructed.
   c. The state requires the area for construction purposes only and will return the area to its former use, appearance, and configuration.

4. An interest in property is acquired by special purpose instruments (e.g., permit, options, leases, agreements, consents, releases) as specified by the Region RESM.
(Name and Address of Owner)

Re: SR_____
    RW_____, C.S._____
    FA No._____
    Right of Way Plan Sheet____ of ____ Sheets
    Parcel Number_____

Dear ________:

The Washington State Department of Transportation (WSDOT) plans to proceed with the above-titled public project. As a part of the project, we need to purchase your property and/or property rights identified on the "Right of Way Plan" by the "parcel number" listed above. The bearer of this letter is the department's agent in completing this transaction.

Your property has been examined by qualified appraisers and appraisal reviewers who have carefully considered all the elements which contribute to the market value of your property. By law, they must disregard any general increase or decrease in value caused by the project itself. Based upon the market value estimated for your property, enter Options 1, 2, 3, or 4 and appropriate Additional clauses A through G, as listed in the attached exhibit.

Payment for your property and/or property rights will be made available to you by certified mail approximately 45 days after you accept the department’s offer, provided that there are no delays in closing the transaction. The date on which payment is made available to you is called the “payment date.” On that date, the state becomes the owner of the property purchased and responsible for its control and management.

You may wish to employ professional services to evaluate the state’s offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the state’s offer. The state will reimburse up to $750 of your evaluation costs upon submission of the bills or paid receipts.

If you decide to reject the state’s offer, the state, acting in the public interest, will use its right of eminent domain to acquire your property for public use. In conformity with the Washington State constitution and laws, the Attorney General will file a condemnation suit to obtain a “Court Order of Public Use and Necessity,” and a trial will be arranged to determine the just compensation to be paid for the property.

We have attempted by this letter to provide a concise statement of our offer and summary of your rights. We hope the information will assist you reaching a decision. Please feel free to direct any question you have to the undersigned. May we please have your early reply as to acceptance or rejection of this offer?

If you have personal property presently located on the property being acquired by WSDOT that needs to be moved, WSDOT will reimburse you for the cost of moving it through the Relocation Assistance program.

Thank you.
Sincerely,
(name)
Region Administrator

By:
    Right of Way Agent
    Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

Signature Date

Note: Only the optional paragraphs that are applicable to the individual case are included in the offer letter.
Option No. 1: (Total acquisition.)

Our offer is $_______ for (front feet, square feet, acres) of land and (house, garage, pump house and pump, etc.)

[Add clauses C, D, E, and F as required.]

Option No. 2: (Partial acquisition.)

Our offer is $_______ This offer consists of $_______ for (front feet, square feet, acres) of land (access rights) and (house, garage, pump house and pump, etc.) and $_______ for all (severance or proximity) damages.

[Add clauses A, B, C, D, E, F, and G as required.]

Option No. 3: (Used for less than fee acquisition.)

Our offer for (an easement/permit, etc.) across the portion of your property needed for the project is $_____. This offer consists of $_______ for loss in market value (damages) to your property and $_______ for (list any improvements acquired).

[Add clauses B, C, D, E, F, and G as required.]

Option No. 4: (Used for acquisition of access rights only.)

Our offer for the purchase of access rights is $_____.

[Add clauses A, B, and D as required.]

Option No. 5: (Used when administrative offers made and no appraisal was completed. The paragraph stating that an appraisal was made must be eliminated from the offer letter.)

An administrative offer of $_______ is being made for your property and/or property rights. The administrative offer consists of $_______ for (front feet, square feet, acres) of land (access rights) and $_______ for all damages to ____________________

Option No. 6: (Used when parcel is subject to leasehold or multiple interests.)

Our total offer is $_______ This lump-sum offer consists of $_______ for the real property being acquired and $_______ for the damages to the remaining real property.

Although the state has provided a summary of the elements of its offer, state law provides for a lump-sum determination of the total amount of damages which should result to all persons, tenants, and encumbrancers who have an interest in the property being acquired (RCW 8.04.110). The department is willing to enter into separate settlements for the separate items that are being acquired or damaged when all parties have agreed to their separate settlements.

Both (property owner) and (sign/lessee owner) must take part in the final settlement of this property acquisition. Payment for your property interests will be made available to you as a lump-sum approximately 45 days after you accept the department’s offer, provided that there are no delays in closing the transaction. If the parties decide on a distribution amount owed to each of them, the department will issue separate warrants upon the request of both parties. The date on which payment is made available to you is called the “Payment Date.” On that date, the state becomes responsible for the control and management of the property and/or property rights purchased.

(Separate offers will be made to the tenant for tenant owned improvements considered to be part of the real estate and to the owner for fee owned improvements and the land. Separate settlements will not be made without all parties to the transaction being in agreement. If the parties are not in agreement, the parcel will be referred to the Attorney General’s Office for litigation and one lump sum payment will be made into the registry of the court.)
Clause A: (If there is an uneconomic remnant, add):

It has been determined that the acquisition of the needed right of way will leave you with a remainder containing an area of ______. If you wish to keep this remainder, you may do so; however, if you prefer to sell it, the state will pay you the remaining value of $______ for that property. This would be in addition to the amount offered in this letter for the purchase of the needed property.

Clause B: (Used in cases involving special benefits. Clear copies of RCW Chapters 8.25.210 through 8.25.260 are attached to the owner's copy of the Offer Letter, and the following clause is added to the letter):

The department's appraiser(s) conclude(s) that the completion of this project enhances the market value of your remaining property in the amount of $______ (Item 1), therefore, special benefits in the amount of $______ (Item 2) have been deducted in computing the offer. To inform you of optional methods of settlement of benefit cases, we have included herewith RCW Chapters 8.25.210 through 8.25.260. The undersigned agent is not authorized to explain or discuss the options provided in the statutes. If you require interpretation, we advise that you seek counsel of your choice.

Item 1: Enter the total amount of special benefits as shown on the approved determination of value.

Item 2: Enter the amount of special benefits that have been deducted in computing the offer. This amount cannot exceed the total of the market value of the property being acquired and the amount of damages, if any, to the remainder of the property.

Clause C: (If there are salvageable improvements affected and salvage was approved in advance, add):

If you choose to keep the improvements and remove them from the site, you may acquire the right to salvage these improvements by paying the salvage value of $______ and by posting a performance bond of $______. Both of these may be paid by deducting them from the amount of the purchase price offered.

Clause D: (If owner or tenant is making no use of land/rights to be acquired, add):

The state will acquire occupancy of the property on the "payment date" as defined in this letter.

Clause E: (If the acquisition will result in the displacement of persons or personal property, add):

Owners and tenants of dwellings, businesses or farm operations being displaced may remain in lawful occupancy for a period of 90 days after the later of:

A. Being advised of their maximum relocation assistance benefits; or,
B. The "payment date."

They are, however, required to sign a rental agreement and pay rent from the "payment date." If the occupant vacates the property within 30 days after the "payment date," the state will refund all prepaid rent.

Clause F: (If there are tenants in occupancy and the owner's salvaged improvements or personality is to be removed, add):

By execution of a rental agreement with the state, you will be permitted a reasonable length of time to salvage improvements and/or to remove personal property after the date the property is vacated by any tenants now occupying or using the property.

Clause G: (If access to a remainder is by a frontage or service road, to be constructed, add):

The state's plan provides for access to your remaining property by a roadway to be constructed. This offer is based on that premise. You are hereby informed, however, that construction of said roadway may be delayed until after construction of the main highway itself. In the interim, you will be provided with temporary access directly to the main highway. This temporary access will be closed and cease to exist when said roadway is constructed and operational.

Clause H: (If acquiring residential properties, add):

RCW 64.06 provides for a disclosure statement from sellers of residential property including multi-family dwellings up to four units and condominiums unless the Purchaser elects to waive the necessity of said statement. The Washington State Department of Transportation, as Purchaser of your property, does hereby waive the necessity of your providing the disclosure statement.
6-2.3 Identity of Parties

6-2.3.1 General

A. A title report may include encumbrances recorded against parties with the same or similar names as the record owners. These encumbrances (judgments, tax liens, etc.) usually do not include a property description and may not actually affect your property. Care must be exercised in determining the identity of parties concerned.

B. A title report may also question the ability of a party in interest to give a legal conveyance. These questions normally arise from the appearance of filings (by name) for dissolution of marriage (divorce), of guardianships, commitment of persons to institutions for the care of mental illnesses, etc.

C. It may also be appropriate for the Acquisition Agent to raise questions of personal identity and questions of legal capacity of any party in interest as a result of field investigation.

6-2.3.2 Rules

The state is responsible for determining and clarifying:

A. The identity of parties in interest.

B. The status (ability to give a legal conveyance) of parties in interest.

6-2.3.3 Procedures

The Acquisition Agent:

A. Questions the parties having direct and personal knowledge of the case (e.g., parties named, attorneys, relatives, etc.) on items as the following, as appropriate:

1. Full names.
2. Age of party.
3. Name of spouse.
5. Occupation.

B. Includes a summary of the information and states conclusions in the encumbrance report (see Chapter 8) clarifying the question of identity or ability to convey.

C. If the investigation produces insufficient basis for a conclusion and/or if the party in interest does not acknowledge being the party against whom an encumbrance appears, requests completion of an identity questionnaire and affidavit (obtained from the title company issuing the title report) by the party in interest.

D. Any questions which cannot be resolved by the region may be referred to the Olympia Service Center Title and Condemnation Program Manager.
6-3 Acquisition Agent’s Contact With the Owner

6-3.1 Suggested Presentation Technique

The Acquisition Agent:

A. Contacts all parties having an ownership in property rights required (land, encumbrances, and improvements). Encourages a setting for meetings that will allow for proper display of maps and affords enough privacy to avoid unnecessary distractions.

B. Verifies that the person(s) to whom the offer is to be made is the parcel owner, contract buyer, or an agent for same who is authorized to convey the subject parcel.

C. Explains purpose of the project, what property rights will be required, and why.

D. Presents the state’s offer orally and in writing. The state’s offer is normally presented during the first or second personal contact with the owner(s) or their representative. Reviews the offer letter with the owner to ensure complete understanding.

E. Reviews the Right of Way Plans and title report(s) with owner for accuracy and completeness. In the case of a partial acquisition, points out the impact of the project on the remaining property such as water rights, drainage, access restrictions, road approach details, etc.

F. If there are no persons or personal property displaced by the state’s acquisition, the agent so states in the diary.

G. If there are persons or personal property to be displaced, follows instructions in Section 6-4.2.

H. Obtains any information from the owner regarding tenants on the parcel to be acquired, with particular attention to:
   1. Identity of tenants and how to contact.
   2. Length of occupancy.
   3. Amount of rent paid.
   4. Confirms identity of any tenant-owned personality or improvements, as shown in the appraisal and/or determination of value.

I. Obtains copies of unrecorded leases from owner or tenant.

6-3.2 Post-Meeting Responsibilities

6-3.2.1 Diary of Right of Way Activities — Acquisition (WSDOT Form 260-001)

The Acquisition Agent makes detailed entries in the Diary of Right of Way Activities — Acquisition covering every contact, meeting, etc., involving the assigned parcels. These entries are made as soon as possible after each contact to assure accuracy. Upon completion of entries, the agent is to sign and date the diary. Diary entries are limited to a recitation of the facts because the diary is subject to the rights of discovery by all parties in any court proceedings. Diary entries include, but are not limited to, the following:
A. The date of the parcel assignment.

B. The date, time, telephone number, and full name (e.g., Mr. John F. Jones, not Mr. Jones) of any party of interest who is contacted by telephone.

C. The date, time, address, and place of every meeting with any party in interest. This includes the actual location of the meeting, e.g., the dining room of the owner's residence, Attorney John T. Smith's office in the Block Building, etc.

D. The full names of all adult participants in a meeting, and their relationship to the owner. If children are participants, note their approximate ages.

E. The amount in dollars of the state's offer and the fact that the offer was made both orally and in writing. The same information is given for any revised offers by the state.

F. A summary of the events of the meeting, including:
   1. The owner's reaction to the state's offer.
   2. Details of any counter offers, etc.
   3. Owner's questions and Acquisition Agent's responses.
   4. Any problems noted.
   5. The explanation of the Statutory Evaluation Allowance.
   6. The explanation of the Relocation Assistance Program.
   7. If improvements are being acquired, an explanation of any salvage allowed.

G. Either an indication of who signed the receipts for the offer letter and for the Relocation Brochure and the Acquisition Brochure, or a statement that the letter and brochures were delivered, but that the owner refused to sign the receipts.

H. The details of any negotiated/administrative settlement that is reached, or the date of filing the Negotiators Report (WSDOT Form 262-080) (see Section 6-10) and that all parties in interest have been notified of this action.

6-3.2.2 Relocation Assistance Eligibility

The Acquisition Agent sends the original Displaced Person Questionnaire to the Relocation Section as soon as possible following the initiation of negotiations.

6-3.2.3 Continued Negotiation

The Acquisition Agent:

A. If there is a revision to the Right of Way Plan, or if there is a reappraisal, either of which result in a new or revised Determination of Value (WSDOT Form 261-023), makes an appointment with the owners to present the state's revised offer. Uses the same general presentation as in the original offer except that the Agent presents the state's revised offer orally and in writing using the revised offer letter (see Figure 6-3.2.3A) or revised administrative offer letter (see Figure 6-3.2.3B), in which the occupancy date is restated as 90 days from the date of the revised letter. If the acquisition involves an owner-occupied dwelling, a revised Notice of Maximum Benefits letter must be presented.
(Use Region Letterhead)

(Name and Address of Owner)

Re: SR ________
   RW ____ C.S. ____
   FA No. ________
Right of Way Plan Sheet ____ of ____ Sheets
Parcel Number ________

Dear ________:

In our letter dated ________, the State of Washington, Department of Transportation, offered to purchase property and/or property rights owned by you and identified as parcel number ________.

The appraisal which resulted in our offer has now been revised because ___________________. This revision makes it necessary to withdraw our earlier offer and make a new offer.

You may wish to employ professional services to evaluate the state's new offer. However, the $750 evaluation allowance mentioned in our original offer letter is a one-time allowance only.

(See Offer Letter sample for appropriate option(s), Figure 6-2.2H.)

Your rights, as summarized in our earlier offer letter, remain unchanged. May we please have your early reply as to acceptance or rejection of this offer? Thank you.

Sincerely,

(name)
Region Administrator

By:
   Right of Way Agent
   Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

__________________________
Signature

__________________________
Date

Revised Offer Letter

Figure 6-3.2.3A
(Use Region Letterhead)

(Name and Address of Owner)

Re: SR __________
   RW _____, C.S. _____
   FA No. __________
   Right of Way Plan Sheet _____ of _____ Sheets
   Parcel Number __________

Dear __________:

In our letter dated __________, the State of Washington, Department of Transportation, offered to purchase property and/or property rights owned by you and identified as parcel number __________.

Changes have occurred which make it necessary to withdraw our earlier offer and make a new offer.

You may wish to employ professional services to evaluate the state's new offer. However, the $750 evaluation allowance mentioned in our original offer letter is a one-time allowance only.

(See Offer Letter sample for appropriate option(s), Figure 6-2.2H.)

Your rights, as summarized in our earlier offer letter, remain unchanged. May we please have your early reply as to acceptance or rejection of this offer? Thank you.

Sincerely,

(name)
Region Administrator

By:
   Right of Way Agent
   Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

____________________  __________
Signature               Date
B. Submits any appraisal provided by the owner to the review appraiser, in accordance with instructions in Chapter 5.

C. Continues the negotiations until either:
   1. A satisfactory settlement is reached. In this case, the Acquisition Agent prepares the Right of Way Acquisition Transmittal (WSDOT Form 262-048) and its accompanying data package as specified in Section 6-8.
   2. A settlement cannot be reached. In this case, the Acquisition Agent prepares the Negotiator’s Report (WSDOT Form 262-080) and its accompanying data package as specified in Section 6-10 or 6-11.

6-3.3 Owner Represented by Others

6-3.3.1 General

A. The property owner (or any other party of interest) may choose to be represented by another party. Certain individuals (e.g., minors, incompetents, etc.) are required by law to have another party represent them.

B. An Attorney at Law may act as the owner’s representative, but may not contract or convey in the place or name of the owner.

6-3.3.2 Rules

A. At the owner’s request, the state conducts acquisition activities with the interested party’s Attorney at Law.

B. The state accepts conveyances from the following duly authorized fiduciaries:
   1. Attorney in Fact:
      a. Corporate — The officers who are authorized to act in the corporation’s name, as determined by a review of the corporation’s articles of incorporation and/or bylaws.
      b. Individual — As provided in a recorded Power of Attorney that has not been revoked or superseded, if the principal is alive and mentally sound.
   2. When confirmed or appointed by and acting under the order of the court:
      a. Administrator or executor of the estate of a decedent.
      b. Guardian of a minor, incompetent, or insane person.
      c. Receiver of a corporation in receivership.
      d. Referee or trustee of a person or business in bankruptcy.

C. Legal fees and owner’s expenses required to pass good title to the state are payable as “incidental selling expenses” in accordance with Section 6-4.
6-3.3.3 Procedures

6-3.3.3.1 Attorney at Law

A. If the property owner (or any other interested party) is represented by an attorney, the Acquisition Agent deals only with that attorney. The Acquisition Agent requests the property owner to furnish written confirmation of the scope and fact of such representation. When furnished, such confirmation is made part of the parcel file.

B. If the property owner subsequently decides to deal directly with WSDOT, the Acquisition Agent requests that the owner furnish a letter of notification. When received, such letter is placed in the parcel file.

6-3.3.3.2 Attorney in Fact

A. When dealing with the officers of a corporation, the Acquisition Agent proceeds as specified in Section 6-5.

B. When dealing with an owner's Attorney in Fact (who may also be an Attorney at Law), the Acquisition Agent may accept conveyance from either the individual (the principal) or from the Attorney in Fact, provided (in the latter case) that the Acquisition Agent:

1. Reviews the recorded Power of Attorney and determines that the Attorney in Fact is authorized to convey the subject property.

2. Determines that the recorded Power of Attorney has not been revoked or superseded.

3. Uses the proper form of acknowledgment, etc. (see Section 9-15.1), thereby obtaining the Attorney in Fact’s sworn statement that the principal is alive and of sound mind.

4. Includes a copy of the Power of Attorney, showing recording data in the transaction package when forwarded for processing.

6-3.3.3.3 All Other Fiduciaries

The Acquisition Agent:

A. May discover from either the title report or from field work that a fiduciary (administrator, executor, guardian, trustee, etc.) exists or is needed.

1. The title report will note the existence of a court-appointed fiduciary if the court action was in (or was recorded in) the county where the subject property is located.

2. Again, if the action took place in (or was recorded in) the appropriate county, the title report may note the existence of a problem, e.g., that the interested party (or a party of a similar name) was committed as insane (see Section 6-2 for procedures on “Identity of Parties”).

B. If a fiduciary is needed, or if the existing court-appointed fiduciary does not have the power to convey, suggests that the party in interest obtain the services of an Attorney at Law.

C. Obtains a supplemental title report that identifies the duly-authorized fiduciary.
D. Deals with the fiduciary using the procedures of Section 6-3 and provided that:

1. Proper court proceedings are followed:
   a. In the case of a nonintervention will, the order of solvency must have been entered before the executor can legally convey to the state.
   b. In all other cases, the following court procedure is required:
      (1) Order of sale.
      (2) Posting and publication of notice of sale.
      (3) Independent Appraisal of the Property — The appraisal must be not more than one year old, and the sale must be for at least 90 percent of the independently appraised value.

      \textit{Note:} The foregoing is for a total take. In the case of a partial take, if the department’s appraisal and the court appraisal are close (10 percent) on the before value, the court could be expected to accept the department’s evaluation of the take. Otherwise, the court’s appraisal must be a complete before and after type of appraisal, and the department’s offer must be not less than 90 percent of the court’s appraisal of the value of the take. The court’s appraisal may be submitted as an owner’s appraisal.
      (4) Notice to the court on return of sale.
      (5) Order Confirming Sale — This order legalizes the fiduciary’s conveyance to the state; therefore, a copy is included with the transaction package.

2. The fiduciary makes a commitment to a reasonable attorney’s fee (if any) to be charged to the state.

3. The proper forms of acknowledgment, etc., are used on the instrument(s) (see Chapter 9).

6-3.4 Out-of-State Owner

If an owner resides out-of-state or if so instructed by the Region RESM, negotiations will be accomplished by mail. In these instances, the Acquisition Agent:

A. Adapts the procedures in Section 6-2 for initial preparation.

B. Sends to the owner by certified mail, with return receipt requested:
   1. The original and one copy of the offer letter (see Figure 6-2.2H), with the copy marked requesting signature and return.
   2. A copy of the Right of Way Plan marked to definitely show the area to be acquired and any remainder(s).
   3. The appropriate Relocation Assistance Program brochure.
   5. Such additional relocation assistance material as may be deemed necessary upon consultation with the Region Relocation Assistance Officer.
6. Original and one copy of all instruments necessary for the transaction.
7. Real Property Voucher(s) (WSDOT Form 262-039).
8. Special instruction on what to sign, where to sign, how to sign, requirements for acknowledgments, and instructions for return mailing.

C. Upon return of the certified mail receipt, telephones the owners to discuss the state’s offer and to obtain the owner’s reaction.

D. Upon receipt of the executed instruments, signed voucher(s), receipted offer, and relocation brochure, sends a “thank you” letter and completes the Right of Way Acquisition Transmittal (WSDOT Form 262-048) as specified in Section 6-8.

E. If the owners do not respond within two weeks, sends by certified mail (return receipt requested) a “follow-up” letter or contacts by telephone to follow-up.

F. If the out-of-state owners do not respond within two weeks to the “follow-up” letter, sends by certified mail (return receipt requested) an urgent letter. If the owners are in-state, makes personal contact.

G. If the owners reject the state’s offer or do not respond within two weeks to the “urgent” letter, sends by certified mail (return receipt requested) a “condemnation notice” similar to that in Figure 6-3.4G, and files the Negotiator’s Report (WSDOT Form 262-080) (see Sections 6-10 and 6-11).

6-3.4.1 First Contact (Offer) by Mail

The Region RESM may designate projects in which the first contact (offer) with property owners may be accomplished by mail. In these instances, the acquisition agent:

A. Adapts the procedures in Section 6-2 for initial preparation.

B. Sends to the owner by certified mail, with return receipt requested:

1. The original and one copy of the offer letter (see Figure 6-2.2H), with the copy marked requesting signature and return.

2. A copy of the Right of Way Plan marked to definitely show the area to be acquired and any remainder(s).


4. Relocation Assistance Program brochure, if appropriate.

5. Such additional relocation assistance material as may be deemed necessary upon consultation with the Region Relocation Assistance Supervisor.

6. A pre-addressed, postage paid envelope.

7. A cover letter with brief project description and an explanation of the acquisition procedure and the agent’s business card.

C. After a reasonable time for review by the owners, telephones to discuss the state’s offer, and sets up a meeting.

D. Continues with normal negotiation process.
(Use Region Letterhead)

(Name and Address of Owner)

Re:  SR ______________
    RW _____, C.S. _____
    FA No. ______________
    Right of Way Plan Sheet ___ of ____ Sheets
    Parcel Number ________

Dear _____:

In the process of acquiring property, honest differences of opinion as to Market Value occasionally arise. When this happens, the material is submitted to the courts for a fair and impartial determination. This is done to assure that both your rights as an individual property owner and the rights of all the taxpayers of the state are equally protected.

As we have apparently reached the point where an honest difference of opinion does exist, we are turning this matter over to the Attorney General so that the question of the Market Value of your property may be determined impartially by the court.

We regret that we have been unable to reach a settlement with you. However, since there will be several days of preparation time required prior to submitting your parcel to the Attorney General, we again offer you the amount of $________.* as was previously offered you by our letter of _____*50990302. Should you reconsider and decide to accept this offer prior to its automatic withdrawal by referral of this parcel to the Attorney General, please communicate directly with our Assistant Director, Real Estate Services, at the following address:

Washington State Department of Transportation
Assistant Director
Real Estate Services Office
Transportation Building
Olympia, WA 98504

Sincerely,

(name)
Region Administrator

By:

Acquisition Agent
Telephone:

*Insert dollar amount and date of latest offer letter.
6-4 Inducements

There are a number of inducements available which may assist in reaching a settlement with the property owners.

6-4.1 Expenses Incidental to Selling to the State

6-4.1.1 Statutory Evaluation Allowance

By statute (RCW 8.25.020), parties having interests in a parcel may be reimbursed up to $750 for "expenditures actually and reasonably incurred" in evaluating the state's offer. The Acquisition Agent uses the following guidelines and procedures in making the claim for the statutory evaluation allowance:

A. In making the offer to the owners, the Acquisition Agent explains the statutory evaluation allowance. The Agent suggests to the owners that, if they choose to have an evaluation made, it should be made by knowledgeable personnel. Do not suggest that they have their own appraisal made. An evaluation of the state's offer may take many forms — an appraisal is only one of those forms.

B. Only one allowance may be paid per transaction. This rule applies in the following situations as well as to the standard single parcel-single owner transaction:

1. More than one offer is made on a parcel.
2. Two or more tracts which have separate parcel numbers but are combined for appraisal and acquisition purposes due to common ownership.
3. More than one party in interest elects to have an evaluation made.

C. The Acquisition Agent reviews the documentation accompanying the claim for payment and prepares a Real Property Voucher not to exceed $750 for those items which qualify. The documentation for the claim must accompany the signed voucher.

D. The statutory evaluation allowance is normally paid at the time of final settlement unless unusual delays in settlement are experienced due to department activities (e.g., lack of funding, etc.).

6-4.1.2 Allowance for Other Expenses

Certain "incidental expenses" incurred in transferring property to the state are payable by the department.

A. Payable Expenses

1. Processing Expenses — The mortgagee's reasonable fees for processing documents and analyzing the account, recording fees, owner's legal fees, etc., required to pass good title.

2. Prepayment Penalties — Loan prepayment penalties charged by a mortgagee.

   Note: There are no prepayment penalties in the case of FHA-insured loans.

3. Reconveyance Fee — A Trustee is entitled to a fee for execution of a reconveyance (see Chapter 8).
4. Other charges incidental to the conveyance of clear title by the owner such as attorney’s fees in connection with the appointment of a guardian, administrator, or executor.

B. Nonpayable Expenses

1. Prepayment penalties when they are incurred by the voluntary act of the grantor (i.e., when the grantor elects to prepay all or part of a loan).

2. Any other expense incurred solely for the convenience of the grantor (e.g., general attorney’s fees related to advice rather than to perfecting title).

C. Procedures

The Acquisition Agent:

1. Obtains a bill or letter from the charging agency, person, or company for any fee and/or prepayment penalties.

2. Questions the mortgagee and verifies the necessity for a mortgage processing charge or prepayment penalty. Telephones the Title and Condemnation Program Manager for approval of any mortgage processing charges in excess of $500. Approvals received are noted by the Acquisition Agent in the parcel’s Diary of Right of Way Activities (WSDOT Form 260-001).

3. Includes the payable expenses (“A” above) in the “For All Other Items” section of the Real Property Voucher (WSDOT Form 262-039). If the charging agency, person, or company is joining on the voucher, these expenses may be shown on the principal Real Property Voucher. Otherwise, they may be separately vouchered. The Trustee’s reconveyance fee is separately vouchered at the time of delivery of the reconveyance.

Note: Prepaid Taxes — Although not truly an expense incidental to selling to the state, prepaid taxes allocable to any period after the state’s acquisition may be claimed from and refunded by the County Treasurer (see Chapter 8).

6-4.2 Relocation Assistance Program

If our acquisition requires the moving of persons or personal property from the parcel, the Acquisition Agent completes a Relocation Eligibility Report (WSDOT Form 264-003) and delivers a Relocation Assistance Program Brochure and a Notice of Relocation Rights (see Chapter 12 for example) to the property owner.

The Acquisition Agent should answer any questions posed by the property owners or offer to have a Relocation Agent contact them.

More complete information and instructions will be found in Chapter 12 of this manual.
6-4.3 Trades and Exchanges
6-4.3.3 General

Sometimes it is possible to arrange a settlement by trading or exchanging un-needed lands for needed lands. The lands traded may be either full or partial compensation for the lands acquired.

6-4.3.2 Rules

A. There are three sources of land available for trades or exchanges:

1. Land shown on the approved right of way plans as “excess right of way,” provided such land has been entered into the Real Property Inventory in PMS (see Chapter 11) and has been declared surplus.

   Note: It may be necessary to delay the actual transfer of this type of land until after the opening of the new facility.

2. Any state-owned, department-controlled land in the vicinity of the project which is shown on the Real Property Inventory as “surplus” (see Chapter 11).

3. Any “remainder” (see Section 6-4.6) acquired on a specific project may be used as trading stock on that same project, provided that:
   a. The “remainder” is entered into the Real Property Inventory (see Chapter 11).
   b. The state has acquired a valid title to the “remainder.”
   c. The property has been declared surplus in the Olympia Service Center and a value for the property has been established by the Property Management Section.

B. In addition to the formal instruments, documents, etc., the acquisition transmittal includes an Exchange Agreement (WSDOT Form 262-100) completed as instructed in Chapter 9 with particular attention to the inclusion of the inventory control number.

C. In all trades or exchanges involving the payment of money by the state, a Real Property Voucher (WSDOT Form 262-039) is prepared as described in Chapter 10.

D. Full credit for the value of traded or exchanged surplus lands, as determined by a current Determination of Value (DV) (WSDOT Form 261-023), must be realized against the costs of acquisition of the needed lands, or the difference justified through administrative settlement procedures as set forth in Section 6-9.
6-4.3.3 Procedures

A. When the approved right of way plans are available, the Region RESM:
   1. Adds all “excess right of way” and “remainders” to the Real Property Inventory.
   2. Initiates procedures to have all “excess right of way” and available “excess” lands in the vicinity of the project evaluated and declared “surplus” (see Chapter 11).
   3. Notifies the Senior Acquisition Agent of all “surplus” land and “remainders” that are available for trades or exchanges.

B. The Acquisition Agent:
   1. Confers with the Senior Acquisition Agent as to which surplus land and remainders are available as inducements for a particular parcel. Obtains copy of Surplus Property Report showing disposal approval.
   2. Conducts negotiations in the normal manner but is prepared to offer a trade or exchange of surplus land at full value as shown by the current Surplus Property Report approved in Olympia Service Center.
   3. Prepares the Real Property Voucher as described in Chapter 10 when the trade/exchange represents only partial consideration.
   4. Obtains the grantors’ execution of the Exchange Agreement.
   5. Prepares the Right of Way Acquisition Transmittal (see Section 6-8) with care to include the Exchange Agreement as specified in this section, and the Surplus Property Report.
   6. If less than full DV credit was obtained in the trade or exchange, complies with Section 6-9 and includes approved administrative settlement documents with the transmitted acquisition package.

6-4.4 Construction Items

A. WSDOT may mitigate damages to a “remainder” by the inclusion of special construction items in the construction contract. An item may be part or all of the consideration to be paid for a given parcel, but its cost may not exceed the estimated reduction in damages to the “remainder” of that parcel. Some types of construction items may affect more than one parcel, in which case the cost of the item may not exceed the sum of the reductions in damages to the remainders of the parcels so affected. The cost of these construction items is eligible for federal participation when FHWA is participating in the costs of right of way acquisition.

B. All construction items require the submission of a “Memo: Construction Item” (Figure 6-4.4B) approved by the Project Engineer. When necessary to enter upon lands not acquired to perform the obligation, a further clause granting a right of entry to the state for that purpose is also required. The “Memo: Construction Item” quotes verbatim the clause from the deed describing the construction item. The right of entry clause does not appear in the “Memo: Construction Item.” For typical clauses see Chapter 9. The memo is prepared in sufficient copies to permit enclosure of the original and two copies in the transaction package.
(Use Memorandum Format)

TO: Region Administrator
FROM: Region Real Estate Services Manager/Acquisition Agent
SUBJECT: Construction Item
SR ______, C.S. _______,
RW ______, C.S. _______,
FA No. ______
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number ______

In the transaction with _________, Parcel No. _________, on the above-referenced project, the following special consideration appears in the (deed/instrument):

(Note: The above clause is written as shown even though the instrument or deed has not yet been finalized.)

(Here is quoted verbatim the clause from the deed/instrument describing the construction item.)

This item is required for the following reason(s):

(State why the item has been offered to the grantor. Simple items are given simple explanations; e.g., "Road approach in accordance with Right of Way Plan Road Approach Schedule." A revision of the Access Plan requires significant explanation of reasons.)

Recommended:  
Initials _______ Date __________________

Accepted and Approved:
Date __________________

State of Washington  
Department of Transportation  
Region Administrator

Memo: Construction Item  
Figure 6-4.4B
6-4.4.1 Construction Items Already Included in the Right of Way Plan

A. Input by Real Estate Services personnel as a result of project inspection during the development stage (see Chapter 1) will often lead to the appearance of construction items on the approved right of way plans (e.g., a road approach shown on the Right of Way Plan or Road Approach Schedule). It may be assumed that the economics of such construction items have been considered and approved, and that the appraiser(s) has based valuation of the "remainder"(s) on the premise that such construction items will be built.

B. Procedures

1. The Acquisition Agent:
   a. May indicate to the owner as inducement for the acceptance of the state’s offer that such construction items are provided for in the plan and will be constructed.
   b. If the owner concurs in the proposed construction, prepares the “Memo: Construction Item,” if appropriate (Figure 6-4.4), quoting verbatim the instrument clause describing the special construction item, but not including the right of entry clause, if any. (The “Memo: Construction Item” is required even though the construction item appears on the Right of Way Plan.) Also see Section 6-4.4.4 Road Approaches.
   c. Hand carries the memo to the Project Engineer for approval (initials and date).
   d. Submits the memo approved by the Project Engineer to the Region RESM.

2. The Region RESM secures the approval of the Region Administrator on the memo and returns same to the Acquisition Agent.

3. The Acquisition Agent:
   a. Proceeds with the negotiations, but delays securing signatures until advised of the approval of the Region Administrator.
   b. Includes the original and two copies of the “Memo: Construction Item” in the transaction package.

6-4.4.2 Special Construction Items

A. Construction items not appearing on the approved Right of Way Plan may be suggested by the Appraiser, the Acquisition Agent, and/or the owner as damage mitigating, beneficial, or desirable. Regardless of the source, the economic as well as physical feasibility of any construction item must be first determined.

B. A thorough examination of the geography and topography of the parcel is required to determine physical feasibility. This should be made by the Project Engineer/Access Management Personnel in company with the Appraiser/Acquisition Agent and land owner, as appropriate.
C. Assuming a finding of physical feasibility and initial approval by the Project Engineer/Access Management Personnel, the matter of economic feasibility becomes an appraisal problem. The matter will be referred back to the Appraiser through the Region RESM for appraisal revision. If the proposed construction item appears economically feasible, i.e., the cost of construction is less than the amount of damages being offset by the construction, the Acquisition Agent drafts the “Memo: Construction Item” and any other necessary documentation and seeks the Region Administrator approval as in Section 6-4.4.1 above. If the cost of construction exceeds the potential reduction in damages, the matter still may be considered for approval as an administrative settlement under Section 6-9.

D. Other procedural steps follow as in Section 6-4.4.1 above, unless the proposed construction item requires a change in the Access Plan. In such case, see Section 6-4.4.3, below.

6-4.4.3 Construction Items Requiring Revisions to the Access Plans

The Acquisition Agent may discover that a proposed construction item requires a change in the Access Plan in order to be feasible. Such changes require the approvals of the Region Administrator, State Design Engineer, State Access and Hearings Engineer, and the FHWA (on federal aid projects only). The Acquisition Agent processes construction items requiring revisions to Access Plans as described in Section 6-4.4.1 and 6-4.4.2 with the following exceptions:

A. Requests are made only in rare instances and where the importance of the change is thoroughly explained in the body of the memo (Figure 6-4.4B).

B. In the memo (Figure 6-4.4B), the words “Subject to approval by the Design Engineer” precede the text explaining the construction item.

C. A copy of the memo is provided to the Region Administrator for his use in obtaining (through the Design Engineer) the necessary approvals.

D. If appropriate, the region will seek advise from the State Access and Design Engineer.

6-4.4 Road Approaches

Road approaches on non-limited access highways are governed by RCW 47.50. Specific formulas for establishing road approaches have been determined.

A. All new or altered road approaches must be documented by permit. All changes to existing access points must be approved by the Region Administrator.

B. Construction memos may be prepared but are not required for Olympia Service Center processing.

6-4.5 Salvage of Improvements

A. If improvements are being acquired as a part of the state’s acquisition, the Acquisition Agent, prior to contacting the owners:

1. Prepares a Fixtures and Improvements Agreement (WSDOT Form 263-005).
2. If the region has determined that project scheduling and other factors will allow for salvage of improvements.
   a. Obtains written approval from the Project Engineer and the Region Real Estate Services for all tenant-occupied improvements to be salvaged.
   b. Obtains a Salvage Appraisal Report (WSDOT Form 263-003) from Region Property Management Section.
   c. Determines from the Region Property Management Section the amount required as a Performance bond. This amount shall be sufficient to cover the costs to perform the necessary cleanup if the owner does not perform as promised.

B. If the owners desire to salvage any or all improvements and it will not adversely impact construction, the Acquisition Agent may offer the same at the amount of the salvage value given on the Salvage Appraisal Report, plus the required Performance Bond. See Chapter 10 for preparation of the Real Property Voucher(s).

C. See Chapter 11 for more complete information and instructions.

6-4.6 Remainders

The following sections cover acquisition involving two categories of remainders: "uneconomic remnants" and "excess acquisition."

6-4.6.1 Uneconomic Remnants

A. If the Determination of Value (DV) includes a statement by the reviewer that a remainder is an uneconomic remnant, the department then offers to purchase such remnant at its damaged value by adding "Clause A" to the offer letter (see Figure 6-2.2H). Although the department is required to offer to purchase uneconomic remnants, the owner is not required to sell them. If the remnant shows evidence of contamination any offer to buy should be contingent on the property being acquired in a clean condition.

B. If the owner rejects the state’s purchase offer and the Acquisition Agent files the Negotiator’s Report as specified in Sections 6-10 or 6-11, the uneconomic remnant is normally not included in the condemnation action except by agreement between the assistant attorney general and the property owner.

6-4.6.2 Excess Acquisition

6-4.6.2.1 Rules

A. An excess acquisition is the acquisition of a remainder or remnant which has not been identified in the DV as being "uneconomic."

B. The department tries to avoid acquiring excess property, but may do so when the excess is to be used for “trading stock” on the same project, or for a pit or borrow site not yet mapped, or when appraisal considerations dictate that such excess acquisition is in the best public interest.
Acquisition

C. If the state has no interest in acquiring a remainder for the purposes set forth in B, above, and the owner is adamant in his refusal to keep the remainder, the Acquisition Agent may make an excess acquisition by following the appropriate procedures:

6-4.6.2.2 Procedures

A. If the “after value” of the remainder, as shown on the DV, does not exceed $10,000, the Acquisition Agent prepares a memo (see Figure 6-4.6.2.2A) requesting the approval of the Region RESM. Upon receipt of the approved memo, the Acquisition Agent proceeds with the transaction in the normal manner.

B. If the “after value” of the remainder, as shown on the DV, exceeds $10,000, the Acquisition Agent also includes a signature line for the approval of the Director, Real Estate Services (DRES).

C. The Acquisition Agent includes any memos authorizing the excess acquisition with the Right of Way Acquisition Transmittal.

D. If the owner rejects the state’s offer and the Acquisition Agent files the Negotiator’s Report (WSDOT Form 262-080) as described in Sections 6-10 or 6-11, the Negotiator’s Report specifies only the required right of way.

6-4.7 Rent Free Occupancy

Rent free occupancy of improved properties may be offered as an inducement to settlement only with prior written approval from the Director, Real Estate Services.

6-5 Special Cases

6-5.1 Olympia Service Center Acquisitions

A. Olympia Service Center acquisition section normally handles the following transactions:

1. Land owned by the United States (including property rights held by the Bonneville Power Administration, but not including lands of the Forest Service or the Bureau of Indian Affairs).

2. Lands owned by the State of Washington.

3. Lands owned by major railroads.


5. Acquisitions for the Marine Division.

B. As soon as a region project has been approved for acquisition, the Region RESM identifies any parcels falling into categories 1, 2, or 3 in A above. Such parcels are referred in writing to the Olympia Service Center acquisition section. Each referral is to include the following:

1. Title report and all supplemental reports.

2. Identification of needed land or interest.

3. Negotiator’s copy of approved appraisals and Determinations of Value.
(Use Memorandum Format)

TO: Director, Real Estate Services
FROM: Region Real Estate Services Manager
SUBJECT: Request to Purchase Excess Lands
SR ____________
RW ____, C.S. ____.
FA No ____________
Right of Way Plan Sheet ____ of ____ Sheets
Parcel Number ______

The owners of the above-referenced parcel have indicated a strong desire to have the state purchase the remainder of the parcel which lies outside the required right of way. This remainder has been given an “after value” of $_______ on the Reviewing Appraiser’s Determination of Value Number ________ prepared by ___________ on __________, 20____.

For the following reasons, we recommend that authorization to acquire this remainder as an excess acquisition be granted:

(Here state the justification for the excess acquisition.)

Recommended:

___________________________  Date
Right of Way Agent

Recommended:

___________________________  Approved:
Region Real Estate Services Manager

___________________________  Date
Director, Real Estate Services

Memo: Request to Purchase Excess Lands

Figure 6-4.6.2.2A

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4. Any other pertinent information: federal aid number, right of way number, control section, parcel number, negotiation cut-off date, ad date, etc.

5. Copy of cross sections and construction plan (for railroad acquisitions only).

6-5.2 Corporations

A corporation is a legal entity under state law and has many of the capacities of a natural person. Many of the procedures used in dealing with individuals may be adapted for use in dealing with corporations; however, several special procedures are given below. Also see Chapter 8 for procedures pertaining to acquisitions from public and private utilities.

6-5.2.1 Acquisition Procedures

A. The Region RESM:

1. Checks the title report and the records of the County Auditor or Secretary of State for:
   a. Exact corporate name.
   b. Payment of license fees.

   *Note:* Nonprofit, charitable, religious, educational, and fraternal organizations are exempt from paying annual license fees, but must file an Annual Report of Officers. The Secretary of State’s office can verify the corporation is in good standing.

   c. Deficiencies or disabilities in the corporate authority; e.g., a foreign corporation not authorized to do business in this state.

   d. Dissolved, defunct, or suspended corporations.

2. If any problems are discovered, attaches a memo to the title report which indicates to the Acquisition Agent the steps that are to be taken to resolve the problem.

B. The Acquisition Agent:

1. Examines the articles of incorporation and the bylaws of the corporation to determine who has the authority to execute instruments for the corporation.

2. Prepares a memo to the file abstracting the following information from the articles and bylaws of the corporation:
   a. The date of incorporation.
   b. The exact language (if any) governing the sale of real estate.
   c. Any other information pertinent to the sale.

3. Prepares a resolution (Figure 6-5.2.1B3) and submits it to the corporate Board of Directors when:
   a. The corporation is not in the business of buying and selling real estate, or
b. The sale is for a very large sum in proportion to the corporation's assets, or

c. The sale involves the property on which the home office of the corporation is located.

4. Upon execution of the Board of Directors resolution, or when a resolution is not appropriate, presents the proposed instrument to the corporate officers for execution (see 1, above) and affixing of the corporate seal (if there is one). Uses the corporate acknowledgment form as prescribed in Chapter 9.

6-5.3 Partnerships

A. A partnership is an association of two or more persons to carry on a business for profit. The firm name adopted may or may not reveal the name of any partner and may contain the word "company" and so disguise the fact of partnership. Partnerships are of two kinds: general and limited. The basic difference is that a limited partnership has "limited partners" whose rights, duties, and liabilities are limited by law. This fact is of little importance in the acquisition of real property. Existence of a partnership may be disclosed in the title report, but an Acquisition Agent may be faced with acquisition from a partnership without prior warning.

B. When required to purchase real property from a small business or from an individual operating a small business, the Acquisition Agent should be alert to the possibility that a partnership may be involved and ask pertinent questions to establish or eliminate that fact. If a partnership is involved, the Acquisition Agent's first duty is to secure a copy of the partnership agreement and examine the same to determine any provisions in regard to the conveyance of real property.

C. Procedures

Upon determining that a partnership does exist, the Acquisition Agent:

1. Secures a copy of the partnership agreement and includes it in the acquisition package.

2. Has the authorized partners execute the instruments to the state (see Chapter 9).

3. If a copy of the partnership agreement cannot be obtained, or if same is silent with regard to authority to convey real property, has all partners and their spouses execute the instruments to the state.

D. The Acquisition Agent is encouraged to seek assistance from the Region Title Examiner if there are any questions about how to prepare the deed and voucher for a partnership.
Resolution by the Board of Directors of the ___________ company, a ___________ (state of incorporation) ___________ corporation.

In the matter of State Route ______.

WHEREAS, the ___________ company is the record owner of the following described land:

: and

WHEREAS, in the improvement of State Route ______, by the Washington State Department of Transportation, it is necessary and advisable for the State of Washington to acquire title to the following described portion of said lands for a right of way for said highway:

: and

WHEREAS, after due consideration by the Board of Directors of the ___________ company, it appears to said Board that it will be in the best interests of both the company and the State of Washington that the company convey said lands to the state of Washington by Warranty Deed for a consideration of:

NOW THEREFORE, be it hereby resolved by the Board of Directors of the ___________ company, that the ___________ company through its Corporate Officers, execute, and deliver said deed to the Washington State Department of Transportation.

Done at a (regular/special) meeting of the Board of Directors of the ___________ company this ________ day of ________, 20__.  

(Corporate Seal)  

Chairman  

Director  

Director  

Attest: ____________________  

Secretary of the ___________ Company  

(Note: At least a majority of the directors must sign.)
6-5.3.1 Limited Liability Companies

A Limited Liability Company is a business entity that has the income tax benefits of a partnership and the limited liability of a corporation. It is composed of at least two members who must file a Certificate of Formation with the Secretary of State and prepare a Limited Liability Agreement. The Agreement established the authority of the “members” or “managers” to act on behalf of the company. Title to property vests in the name of the company and the company name must be followed by “Limited Liability Company,” “Limited Liability Co.,” or “L.L.C.” To clear title, all members must sign the conveyance document unless the Limited Liability Agreement grants authority to convey or mortgage to certain members or managers.

6-5.4 Political Subdivisions of the State of Washington

Examples of political subdivisions of the state of Washington are counties, cities, towns, school districts, irrigation districts, etc. Some political subdivisions are municipal corporations (e.g., cities and school districts). Irrigation districts are not municipal corporations. In preparing instruments, etc., the Acquisition Agent should use the terminology given in the title report.

6-5.4.1 Counties

6-5.4.1.1 General Procedures

In the state of Washington, county governments may be either on a commissioner system or on a council-executive system. In either case, the Acquisition Agent makes contact through the appropriate county office. The exact process by which the county transfers real property to the state is controlled by the county’s charter; however, either of the following procedures will apply:

A. In a “commissioner system” county, the Acquisition Agent:

1. Prepares the usual data package for making the state’s offer (e.g., maps, firm offer letter, relocation kit, etc.)

2. Makes the state’s offer to the County Engineer’s representative or other appropriate county official.

   Note: Procedures relating to compensation do not apply to acquisition of road right of way.

3. Prepares a resolution (see Figure 6-5.4.1.1A3) authorizing execution of the deed. Upon approval from the County Engineer’s office, the County Commissioners pass and execute this resolution. The Acquisition Agent includes a copy of the executed resolution in the transaction package.

4. Prepares the Quitclaim Deed. All three County Commissioners should sign the deed. However, the deed is legal when signed by two of them. Use the County Commissioners form of acknowledgment (see Figure 9-15).

5. Prepares the Real Property Voucher. The voucher is executed by the Clerk of the Board or by any other official who has the power to bill the county’s debtors.
RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS IN THE COUNTY OF ____________,
STATE OF WASHINGTON.

In the matter of State Route ______.

WHEREAS, the County of ____________ is the record owner of the following described lands:

WHEREAS, in the improvement of State Route ______, by the Washington State Department of Transportation, it is necessary and advisable for the State of Washington to acquire title to the following described portion of said lands for a right of way for said highway:

(description)

WHEREAS, after due consideration by the Board of County Commissioners of the County of ____________, it appears to the said Board that it will be for the best interest of both the County of ____________, and the State of Washington, that the County of ____________ convey said lands to the State of Washington by Quitclaim Deed for a consideration of ____________.

NOW THEREFORE, be it hereby resolved by the Board of County Commissioners of the County of ____________, State of Washington, that the County of ____________, in accordance with RCW 47.12.040 (RCW 84.64.320 for tax title lands) and through its Board of County Commissioners, execute and deliver said deed to the Washington State Department of Transportation.

Done at a (regular/special) meeting of the Board of County Commissioners of ____________ County this ______ day of ____________, 20___.

(Seal)

______________________________  Chairman

______________________________  Commissioner (omitted if council type of county government)

Attest:

County Auditor and Clerk of the
Board of County Commissioners

______________________________  Commissioner (omitted if council type of county government)

(Note: This format may be adapted for a county using the "council-executive" system by substituting "County Council" for "Board of County Commissioners" except in the authorization for execution where the substitution would be "County Executive.")

Typical County Commissioner's Resolution
Figure 6-5.4.1.1A3
B. In a “council-executive system” county, the Acquisition Agent proceeds as in Section 6-5.4.1.1, except that:

1. The resolution (Figure 6-5.4.1.1A3) is passed by the County Council, is executed by the Chairman of the Council, and authorizes the County Executive to execute the deed.

2. The deed is executed by the County Executive or designee and the County Commissioners form of acknowledgment is adapted to fit.

6-5.4.1.2 County Road Located Within Highway Right of Way

Using the procedures outlined in Section 6-5.4.1.1 and Chapter 9, the Region RESM secures a Quitclaim Deed from the county for all county rights of way that lie within the right of way limits of each new state highway project. This action is postponed until the transactions with all other owners are substantially completed in order to avoid the necessity for supplemental instruments due to plan revisions. It is not necessary to recite the area of the lands conveyed.

6-5.4.1.3 Tax Title Lands

Using the procedures outlined in Section 6-5.4.1.1, the Region RESM (or his designee) secures a Quitclaim Deed from the county for all tax title lands (using a parcel by parcel form of description) that lie within the right of way limits of each new state highway project. RCW 84.64.320 provides that the consideration be for not less than the principal amount of the unpaid taxes. Therefore, contact the County Treasurer to determine the exact amount to be paid. The Deed will be prepared by the County Treasurer as provided in RCW 84.64.15. Refer unusual title problems to the Title and Condemnation Program Manager for decision on a case-by-case basis; e.g., if the prior owner of tax title land was either a minor or an insane person, that person has three years from the issuance of the deed to reclaim the property (RCW 84.64.070). Any portions of tax title lands acquired that lie outside of the right of way limits will be excess lands and disposed of under the procedures governing such.

6-5.4.2 Cities and Towns
6-5.4.2.1 General Procedures

In the state of Washington, city and town governments may be either on a “commissioner system,” “council-mayor system,” or on a “council-manager system.” In any case, the Acquisition Agent makes contact through the City Engineer’s office. Where right of way is required from properties owned by a city or town (other than streets), the procedures outlined in Section 6-5.4.1.1 are adapted for use with such cities and towns. In any case, the transmittal includes: a copy of the passed and executed resolution, the executed deed, and the executed Real Property Voucher.

6-5.4.2.2 City Streets Located Within Highway Right of Way

A. Non-Access Controlled Highways — When a street, etc., in an incorporated city or town is placed on the route of a non-access controlled state highway (pursuant to RCW 47.24.020), title to such street, etc., remains vested in the city or town. If the state elects to improve its highway by the widening of such a street, the additional right of way may be acquired either by the city or town.
or by the state, and the costs of acquisition split, as may be mutually agreed upon. By statute, the title to such additional widths vests in the city or town. If the agreement is for the state to acquire, the Acquisition Agent proceeds to do so in the normal manner (Section 6-2).

B. Limited Access Facilities — The title to the right of way for limited access facilities vests in the state. No documents are necessary to transfer ownership of a city street to the state when it is within the right of way limits of a limited access highway.

6-5.4.3 Other Political Subdivisions

When acquiring property from any other political subdivision the Acquisition Agent adapts the procedures outlined in Section 6-5 as necessary for the political subdivision involved. Procedures for acquisitions from irrigation districts are covered in Chapter 8.

6-5.5 State Agencies

6-5.5.1 Department of Natural Resources

6-5.5.1.1 General

Certain public lands (such as school trust lands, escheat lands, forest board lands, tide and shore lands, and bed and shore lands) are managed by the Department of Natural Resources (DNR). The acquisition of rights of way over and across said lands is controlled by provisions of one of the following portions of the Revised Code of Washington:

R.C.W. 47.12.023 for all DNR-controlled lands other than rights of way over and across the beds of navigable waters and/or harbor areas.

R.C.W. 47.12.026 for rights of way over and across beds of navigable waters and/or harbor areas.

6-5.5.1.2 Procedures

A. The Region Real Estate Services:

1. When ready to appraise DNR-held property, contacts their area office to offer DNR personnel the opportunity to accompany the WSDOT appraiser.

   Note: An appraisal is not required if rights of way needed are over and across beds of navigable waters or harbor areas as these rights are transferred by DNR without charge.

   An appraisal is made of the ownership as if owned by a private individual.

2. Forwards appraisal, when completed, to the Appraisal Program Manager.

3. Requests Olympia Service Center acquisition of DNR lands by letter transmitting the following acquisition package to the Special Acquisition Manager:

   a. Title reports and all supplemental reports (including DNR title reports).

   b. Federal aid number, right of way number, control system number, parcel number, ad. date, etc.
c. Negotiator’s copy of appraisal with Determination of Value (DV).
d. Two color-coded copies of approved Right of Way Plan showing area to be acquired.

4. On request from Special Acquisition Manager clears interests (including access rights and relocation assistance benefits, if appropriate) of lessees and/or contract purchasers.

B. The Appraisal Program Manager:
1. Upon receipt of appraisal report, causes review thereof to be made.
2. Transmits appraisal and DV to Region RESM.

C. The Special Acquisition Manager:
1. Upon receipt of the acquisition package from the Region RESM, makes a request to Olympia Service Center Plans section for the preparation of a land plat.
2. Upon receipt of land plat from the Plans Section, files the following items with DNR as the WSDOT’s “Notice of Intent to Acquire” (RCW 47.12.023):
   a. Statement that the lands, or interest in lands, is required for right of way or other highway purposes.
   b. Statement of just compensation to be paid for the property, based upon the department’s approved appraisal, or
   c. Statement that, pursuant to RCW 47.12.026(1) no compensation is being offered.
   d. Original mylar of land plat.
   e. Two paper copies of land plat, one with acknowledgment stamp.
   f. Copy of Right of Way Plan with the area to be acquired colored in.
   g. Request for transfer of jurisdiction.
   h. Real Property Voucher (WSDOT Form 262-039) if appropriate. (If time is critical, obtain warrant with Voucher Distribution (WSDOT Form 134-128) and send warrant with request package.)
   i. Request for names and addresses of all lessees and/or contract purchasers having an interest in the required lands.

3. When names and addresses of lessees and/or contract purchasers (if any) are received from DNR, forwards this information to region so that these interests (including access rights and relocation assistance benefits, if applicable) can be cleared.
6-5.5.2 Other State Agencies

6-5.5.2.1 General
Negotiations are conducted between the Special Acquisition Section and a representative of the particular agency. Normal acquisition procedures are followed in that WSDOT offers to pay market value as reported on the Determination of Value (WSDOT Form 261-023). The Region RESM clears the interest of lessees and/or contract purchasers. Normal relocation assistance procedures are followed and relocation assistance benefits are available as may be required for displacements.

6-5.5.2.2 Acceptance and Closing
A. When agreement is reached, the Special Acquisition Section submits a Real Property Voucher (WSDOT Form 262-039) to the agency representative for signature and when required prepares the necessary instruments (usually a "Release and Transfer of Jurisdiction," Figure 6-5.5.2.2A, Quit Claim Deed or easement).

B. The signed voucher is returned together with the signed instrument transferring control of the property to WSDOT. The file is processed for payment following normal procedures (see Section 6-8) and documentation is placed in the right of way parcel file. The Special Acquisition Section verifies that the Region has cleared the interests of all lessees and/or contract purchasers and transmits a copy of the signed instrument(s) to the region.

6-5.6 Federal Agencies

6-5.6.1 Forest Service Lands
A. The Region Administrator coordinates engineering activities with the U.S. Forest Service, Department of Agriculture, from the reconnaissance stage on through final approval of the highway plans. Thus, the actual application for rights of way across U.S. Forest Service Lands is made by the Region Project Development Engineer in accordance with the 1991 Memorandum of Understanding, M 22-50 (HR). According to the provisions of the Federal Highway Act of August 27, 1958, the Federal Highway Administration on behalf of the U.S. Forest Service conveys an easement for the right of way to the state of Washington (under the terms and conditions set forth in the Letter of Consent and the separate Stipulation) by issuing a Highway Easement Deed.

B. The Region Administrator, the Region RESM, and the Forest Supervisor of the appropriate national forest coordinate to ensure that:

1. Application is made to the U.S. Forest Service for the right of way.
2. All encumbrances (e.g., leases, mining claims) are cleared.
3. Stipulations are agreed to and signed by the Forest Service and WSDOT Region Administrator.
4. All NEPA requirements are met.
5. The right of way plans submitted to the Forest Service are stamped "Reviewed" and signed by the Forest Surveyor of the appropriate national forest.
6. A Letter of Consent is signed by the Forest Supervisor.
TO: State of Washington Department of Transportation

FROM: State of Washington Department of ________________

WHEREAS, the State of Washington, Department of ________________ has jurisdiction and control of certain lands required for highway purposes, said lands being situated in ________________ County, State of Washington, and more particularly described hereinafter; and

WHEREAS, the State of Washington, Department of Transportation, desires to purchase jurisdiction and control of said described lands for highway right of way purposes and will pay the full appraised value of said lands, which value is ___________ dollars ($__________); and

NOW THEREFORE, be it resolved by the State of Washington, Department of ________________, that upon payment of the sum of ________ dollars ($_________), which constitutes the appraised evaluation there is hereby released and transferred to the Washington State Department of Transportation, all jurisdiction and control of the State of Washington, Department of ________________, in and to the following described lands:

(description)

The lands herein transferred contain an area of _____, more or less, the specific details concerning all of which are to be found within that certain map of definite location now of record and on file in the Office of the Secretary of Transportation at Olympia, Washington, entitled State Route ______, ____________ and bearing date of approval _____________.

Also, the State of Washington, Department of ________________, herein transfers to the Washington State Department of Transportation all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) from and between State Route ______, ____________ and the remainder of said _______, except (insert access reservations).

ADOPTED this ________ day of __________, 20____, State of Washington, Department of ________________.

________________________
Director, Real Estate Services

(Acknowledgment)
C. Contact Olympia Service Center Title Section for assistance with any of the above. When all of the above are completed, the title Section will contact the Federal Highway Administration and complete the Easement Deed process.

D. Temporary uses of national forest land outside of the easement area can be acquired by the Region RESM (or designee). Temporary use, such as a waste site, only requires a Special Use Permit from USFS.

6-5.6.2 Bureau of Indian Affairs

The Bureau of Indian Affairs, U.S. Department of the Interior, has jurisdiction over applications for rights of way across Indian lands (Title 25 CFR, Section 169). The Region RESM contacts the Superintendent of the Indian agency (or other official of the Bureau of Indian Affairs) whose responsibilities include the lands involved. In completing the transaction, the Acquisition Agent complies with all the regulations and requirements of the Bureau of Indian Affairs, and acquires any needed releases of lease.

6-5.6.3 Other Federal Agencies

The Special Acquisition Manager:

A. Applies to the FHWA as provided in Title 23 USC Section 107(d) (Interstate) or Section 317 (other federal aid systems or other projects to be constructed, all or in part with federal funds) when either:

1. The federal agency that controls the needed lands does not have the authority to grant rights of way.

2. The federal agency that controls the needed lands wishes to proceed under Title 23 USC, Section 107(d) or Section 317.

B. When any of the following agencies wish to handle their own transactions, applies to the appropriate agency:

1. U.S. Army or Air Force — Installation Commander and Region Engineer, Corps of Engineers, Department of the Army.

2. U.S. Navy — Region Public Works officer of the appropriate Naval Region.

3. Veterans Administration — Director, Veterans Administration, Washington, D.C.


   b. Bonneville Power Administration — Chief, Branch of Lands, (BPA), Portland, Oregon.

   c. National Park Service — Supervisor of the local installation.

C. Includes the following in the request:

1. The purpose for which the lands are to be used.

2. The estate or interest in the land required and/or extent of access control.
3. Federal aid project number.

4. Name of the agency having jurisdiction over the land and present use of the land.

5. A commitment by the state to commence use of the land for the intended purpose within a period of not more than 10 years following the transfer of the land to the state.

6. An approved map showing parcel number, area of the needed lands, and extent of access control.

7. The legal description of the needed lands to conform to the survey of the needed lands as same appears on the maps.


10. If the application is directed to the FHWA, a proposed Highway Easement Deed (WSDOT Form 262-119 or 262-120, as applicable).

6-5.7 Sundry Sites

6-5.7.1 Materials Sites

A. A materials site is acquired either in fee (preferred) or by lease (see Section 6-6.4). In either case, one or more options (with respect to purchase and/or renewal) may be secured during the acquisition process.

B. Although the procedures for the acquisition of a materials site are similar to those for any other right of way acquisition, the following special procedures are applicable:

1. A Reclamation Plan is prepared by the region for each site in accordance with requirements of the Plans Preparation Manual (M 22-31). Since the Reclamation Plan is an excellent source of information and an aid to settling with the owner, a copy of the plan is included in the parcel file that is furnished to the Acquisition Agent.

2. When other than a fee interest in a materials site is to be acquired by the state, the concurrence of the owners/lessors in the concept of the Reclamation Plan is required. The Acquisition Agent submits the Reclamation Plan to the owners/lessors during negotiations and seeks their concurrence. Assuming such concurrence, the Acquisition Agent prepares a Memorandum addressed to the Region Administrator stating:

   “The (owners/lessors/etc) of this site have reviewed the Reclamation Plan, approved (dated), and concur with its concept.”

Note: The original of the Memorandum goes to the Region Administrator, and two copies are included with the data transmittal to Olympia Service Center.
3. If the owners/lessors do not concur in the Reclamation Plan as presented, the Acquisition Agent breaks off negotiations, notes the owners/lessors objection to the Reclamation Plan, and advises the Region RESM of the facts.

4. The Region RESM reports the objections to the Region Administrator, and obtains either a modified Reclamation Plan or a decision to condemn the parcel. The Acquisition Agent is advised accordingly, and either resumes negotiations or turns the parcel in for condemnation.

5. The Acquisition Agent acquires an equivalent interest in the right of way for any needed access road (e.g., if the site is being acquired in fee, the access road is acquired in fee or by easement).

*Note:* Temporary access to a site is acceptable only when the state obtains either a temporary interest in the site or when an alternate access will be established.

6. If all efforts to acquire a fee interest in the materials site by negotiations fail, the Acquisition Agent refers the matter to the Region RESM.

7. After proceeding as described in Section 6-6, the Region RESM instructs the Acquisition Agent whether to negotiate a lease, file a Negotiator's Report, or to begin negotiations for an alternate site.

### 6-5.7.2 Capitol Plant Sites

Capital plant facilities are managed by the Capital Facilities Administrator. Any decision to purchase, lease, or sell any such facility must have the approval of the Capital Facilities office. Within the computerized property inventory, property types PS (Pit Sites), SP (Stockpile Sites), and CI (Capital Inventory) comprise the Capital Facilities inventory.

Otherwise, the procedures for the acquisition of a capital plant site are similar to those for any other right of way acquisition.

### 6-5.8 Timber and Crops

WSDOT desires that its projects be environmentally compatible and aesthetically pleasing. Therefore, to the greatest extent possible, the natural vegetation is left intact within the limits of the right of way.

#### 6-5.8.1 Rules

A. To the greatest extent practicable, WSDOT acquires timber standing on the right of way, and discourages the property owner from retaining salvage. The Determination of Value will reflect compensation for the timber.

B. With respect to crops other than timber, the property owner is permitted to harvest the crop if this will not interfere with the construction schedule. (Care must be taken to distinguish the crop from the fruit trees or vines producing it. The trees or vines themselves stand in the same situation as timber as discussed in A, above.)
6-5.8.2 Procedures

A. The Acquisition Agent does not offer timber for salvage.

B. If the property owner refuses to settle without being allowed to salvage at least some of the timber, the Acquisition Agent refers the matter to the Region RESM.
   1. The Region RESM coordinates with the Region Administrator and obtains either:
      a. Approval to permit the owner to log the right of way.
      b. Approval to permit the owner to log specified area(s) within the right of way. In this case, the permitted area must be described in the instrument, mapped and flagged, or staked on the ground.

Note:
   (1) In each of the above cases, the Region RESM requests that a Salvage Appraisal Report (WSDOT Form 263-003) be made with respect to the amount of logging approved by the Region Administrator.
   (2) In each of the above cases, the property owner must agree to abide by the State Forest Practices Act as amended (RCW 76.09) and any restrictions which might be imposed by the WSDOT’s environmental plan for the project.
      c. Denial of permission to log the right of way.

2. The Acquisition Agent proceeds as instructed. If any timber cutting is allowed, the value of the timber salvage is shown on the Salvage Appraisal Report.

C. With respect to crops other than timber (see Section 6-5.8), the Acquisition Agent permits the property owner to harvest the crop provided this can be accomplished without interfering with the department’s construction schedule. Also the owner must be willing to execute a rental agreement if the crop cannot be harvested before the state assumes control of the property (see Section 6-7).

D. Timber acquired under B or C, above, is reported on the Fixtures and Improvements Agreement (WSDOT Form 263-005). Salvage rights, if any, sold back to the property owner are also indicated on this form. Agreement with respect to compliance with the State Forest Practices Act and the department’s environmental plan for the project are inserted in the remarks section. A rental agreement is required for any period of salvage activity after the payment date.

6-5.9 Mining Claims

The following sections cover procedures for acquiring both patented and unpatented mining claims. Mineral rights and reservations are covered in Chapter 8.
6-5.9.1 General Procedures

A. The Region RESM contacts the U.S. Bureau of Land Management (BLM) to determine whether the right of way crosses lands “open to mining claims.” If so, the Region RESM files an application with the BLM to have the right of way withdrawn from the “open” lands. This procedure insures against the filing of future mining claims within the right of way. Mining claims filed on other than “open” lands are invalid and may be ignored. When a mining claim is found to be invalid because it was filed on other than “open” lands or because of any other reason, the fee ownership must be determined and dealt with.

B. To determine the existence of valid mining claims, the Region RESM:
   1. Checks the mining claim records at the county courthouse.
   2. Makes an on-site inspection of the project. Checks for the existence of patented mining claims on patented mining claim lands for overlapping claims, etc.
   3. Interviews area residents and prospectors.
   4. Has the BLM determine the validity of all existing mining claims.

C. Usually mining claims are acquired for a nominal amount (up to $500). However, a valid, mineral-rich, and actively worked claim may not be available on this basis. In this case, the Region RESM has the mining claim appraised by a licensed professional mining engineer. After the specialist report is filed, appraisal review and acquisition proceed in the normal manner.

D. If the claim holder wishes to retain the subsurface mineral rights, the Acquisition Agent uses the procedures in Chapter 8 as well as those given below.

6-5.9.2 Patented Mining Claims

A patented mining claim is essentially a fee ownership; however, several special steps must be followed:

A. The Region RESM checks the conditions and stipulations in the patent. For example, timber rights are often reserved by the United States. If ignored, this could result in an overpayment to the patentee.

B. The Acquisition Agent proceeds in the same manner as for any other fee ownership. If the on-site inspection reveals any unpatented mining claims on the property or other problems arise, the Acquisition Agent reports this to the Region RESM and awaits further instructions.

6-5.9.3 Unpatented Mining Claims

An unpatented mining claim is the personal property of the claimant and is only a possessory right. However, the courts have ruled that this possessory right is a real property interest that is compensable in eminent domain proceedings. In effect, it is an encumbrance, and acquisition of the right does not provide the department with all interest in real property.

The Acquisition Agent offers a nominal payment (up to $500) for a Quitclaim Deed (WSDOT Form 262-016) to clear the mining claim.
6-5.10 Water Rights

Water rights, being most frequently encumbrances rather than subjects of acquisition, are covered in Chapter 8.

6-5.11 Wells, Springs, and Septic Systems

A well, spring, or septic system lying within the area to be acquired may be a damage item and as such will be covered in the appraisal of the property. Wells, springs, or septic systems lying within the remainder may become a problem. After completion of a project, the owner may file a claim that the project has impaired the quality and/or quantity of the water or damaged the septic system. To determine the validity of the claim, it is necessary to have data on the quality and quantity of water produced by the well or spring prior to construction of the project. See Chapter 8 for procedures on obtaining tests prior to construction. See Section 6-6 for Damage Claims.

Well and septic problems can sometimes be handled with the use of agreements. The decision to use a Well or Septic Agreement should be made by the Real Estate Services Manager with input from the Appraiser and the Appraisal Supervisor. If it is decided to use a Well or Septic Agreement, the department needs to be reasonably assured that a system can be replaced on site. A visit to the County Health Department or an appropriate specialist is highly recommended. While a detailed analysis or cost breakdown is not required, the opinion of the county or specialist on the type of system required should be documented.

If the system cannot be replaced, a Well or Septic Agreement cannot be used. In this case, a before and after appraisal with appropriate damages should be completed. If research reveals that an agreement would be appropriate, then the appraisal report can be completed with the stated assumption that the system will be replaced in an adequate fashion.

6-5.12 Registered Lands (Torrens Title)

A. When a title report shows that a parcel is registered land and that the duplicate certificates are not on file in the Registrar’s office, the Acquisition Agent includes the following items together with the usual instrument, voucher, etc., in the transaction package:

1. The owner’s duplicate certificate of ownership. If the original “owner’s duplicate” has been lost, the owner must execute an affidavit, file it with the Registrar (County Auditor), and apply to the courts for an order to issue a new duplicate certificate.

2. The mortgagee’s duplicate certificate, if there is a mortgage to be satisfied or partially released.

3. The lessee’s duplicate certificate, if there is a registered lease (for a term of three years or more) to be released.

B. All instruments that are to be filed must be prepared and executed in duplicate, in order to provide an instrument for Olympia Service Center’ records (the Registrar retains the original as part of the county’s records).

C. In the event that a parcel of registered land is condemned, the Acquisition Agent proceeds as described in Section 6-10.
6-5.13 Special Benefits

A. The subject of special benefits may arise in partial acquisitions. In this state, it is necessary to differentiate between and understand three concepts wherein value may be created by a pending highway improvement. The three concepts are defined as follows:

1. Enhancement — Increases in real estate values in advance of right of way acquisition created by knowledge of pending highway improvement.

2. Special Benefits — Value accruing to the remainder of a property by reason of acquisition and use by the state of a portion of such property where such value is special to said remainder and not enjoyed by the general public. Benefits may be special even if other owners on the facility receive similar benefits.

3. General Benefits — Washington law does not clearly define general benefits. Because of this we have only attempted to explain special benefits and will assume that any benefits which are not “special” may be properly considered to be “general” benefits.

Under both state and federal procedures, an owner may not receive compensation based on values due to “enhancement.” In federal condemnation cases, both special and general benefits must be offset against compensation for the part being acquired and/or damages. In state condemnation cases, only special benefits are to be offset against compensation for the part being acquired and/or damages.

B. The Acquisition Agent:

1. Shows the amount of special benefits charged (as shown on the Determination of Value) in the Fair Offer Letter (Figure 6-2.2H) by adding the appropriate clause.

2. Adds Clause B to the Fair Offer Letter and attaches a copy of RCW Chapters 8.25.210 through RCW 8.25.260 to the owner’s copy of the Fair Offer Letter.

3. Modifies the owner’s receipt for the Fair Offer Letter to include receipt of a copy of the statutes.

4. Gives the owner adequate time to consult with counsel of choice before attempting closure.

6-6 Acquisition of Less Than Fee Simple Title

6-6.1 Access Rights Only

A. When only the access rights are to be obtained, the Acquisition Agent proceeds in much the same manner as for a normal acquisition (see Sections 6-2, 6-3, 6-8). The Acquisition Agent obtains a Warranty Deed, Access Rights Only (WSDOT Form 262-013), and clears encumbrances (see Chapter 8).

B. When a limited access facility is being built in an entirely new location and when its right of way and access lines coincide with an ownership boundary, the Acquisition Agent acquires the abutting owner’s access rights (in the usual
manner) only if such abutting owners have a previously existing legal access; i.e., have legal access to or through the neighbor's private property, which is being acquired by WSDOT.

C. When a conventional facility is being converted into a limited access facility, the Acquisition Agent acquires the abutting owner's access rights in the usual manner.

D. Compensation for loss of access (A, B, and C, above) is justified only if so indicated by a valid Before and After Appraisal and Determination of Value.

E. If no access restriction is shown on the right of way plans, access cannot be acquired without prior written approval form the DRES and the Access and Hearings Engineer.

F. If it appears that a change in the Access Plan would be in the best interest of the state, the Acquisition Agent proceeds as described in Section 6-4.

6-6.2 Easements and Permits

6-6.2.1 Rules

A. WSDOT normally acquires fee title to all lands lying within the right of way of a programmed project.

B. WSDOT may acquire either fee title, easements, or permits when property rights are needed outside the right of way prism.

1. WSDOT acquires fee title when it needs the exclusive right of use and occupancy of the property for itself or for transfer to another public service agency.

2. WSDOT may acquire an easement when it needs a continuing, nonexclusive right to enter upon the property of another. The easement will set forth the WSDOT's right to the use of the property under specified circumstances and/or conditions for either a limited or an unlimited time period. An easement can be created either by gift or by purchase; it can be transferred; and it can be extinguished by sale, abandonment, or relinquishment. The following are examples of typical easement situations:

a. An easement for cut or fill slopes, provided that:

   (1) The slope can be put to use with the adjoining lands without detriment to the state's project (e.g., grazing land).

   (2) The slope may be eliminated in the future by bringing the abutting lands to the same grade as the highway facility.

b. An easement for the construction of and continued access to project protection features (e.g., channel change, drainage).

c. An easement for land needed to replace the functional requirements of an existing easement.

3. WSDOT acquires either a construction permit or a temporary easement when it needs the temporary right to enter upon the property of another. The easement or permit will set forth the WSDOT's right to the use of the
property under specified circumstances and/or conditions for a limited time period. The document will also include details of or reference to a plan for any restoration to be performed by the state on the site. An easement or permit can be created either by gift or by purchase, and is extinguished in accordance with it’s terms. The following are examples of typical easement or permit situations:

a. Temporary Easement. This easement is used when the state requires a property right of a temporary nature that involves more than minor work. In most cases, the rights required or the work to be performed is not beneficial to the property owner and just compensation will be paid. The temporary easement will expire by it’s own terms by inclusion of a statement to the following. “The temporary rights herein granted shall terminate within _______ years from date hereof.” Caution should be taken to allow ample time for completion of construction and the opening of the highway to traffic.

b. Construction Permit. The construction permit is used for temporary rights during construction and should not be used when WSDOT needs a perpetual right. A construction permit is valid with the current owner only and must be renegotiated if property ownership changes before construction begins.

• Construction permits will be drafted by the Region Real Estate Services Office. They will also fulfill the criteria listed below.

Characteristics of a construction permit are as follows:

• Will involve relatively minor work that is acceptable to the property owner, such as driveway reconnections, slope flattening, and/or contouring.

• In most situations where no other property rights are to be acquired from the same ownership as a part of the same project.

• The construction permit is normally obtained without payment of compensation (donation/mutual benefits).

If at any time during the acquisition process it becomes apparent that the required permit no longer matches the qualifying characteristics, a temporary easement must be obtained following the formal process as noted herein.


a. Execution of instrument need not be notarized.

b. Need not be submitted to or approved by Olympia Service Center Real Estate Services Office.

c. Executed permit is retained in Region Real Estate Services Office in a file created for that purpose.
5. Condemnation. Temporary easement or permit areas to be acquired by condemnation must be shown on the official Right of Way Plan, notwithstanding any definition and/or requirement appearing elsewhere in this manual, the Design Manual, or otherwise.

6. Lands areas in which less than fee simple title is required are identified on the approved Right of Way Plan.

7. Appropriate instrument formats are described in Chapter 9.

6-6.2.2 Procedures

A. The Region RESM:

1. Obtains from the Development Engineer sufficient information defining how or for what purpose a property is to be used. This will allow determination of the type of instrument of conveyance (i.e., deed, easement or permit) and compose the appropriate language of conveyance that will obtain all and only those property rights that are necessary, in accordance with Chapter 9.

2. Obtains appraisals and appraisal review or administrative determinations of value in the normal manner determining the appropriate compensation for those rights being affected, unless there has been advance notice that the owner intends to donate the needed property rights (see Section 6-1).

B. The Acquisition Agent:

Obtains the conveyance and whatever other instruments, vouchers, etc., may be required.

1. Relocation assistance normally is not involved in the acquisition of an easement or permit, but if such acquisition should cause a displacement, relocation assistance is applicable to the same degree that it would be in a fee acquisition.

2. Property management normally is not involved in the acquisition of easements or permits (but see Chapter 11 for “after acquisition responsibilities”), except in the situation where improvements lie within the easement or permit area or the duration of the easement or permit is for more than 10 years (See Section 6-4).

3. If the owner elects to donate the required property rights, complies with Section 6-3.

6-6.3 Change of Grade

6-6.3.1 General

Once the grade of an existing street, road, or highway has been established, any change of that grade may cause a compensable damage to any abutting property owner. The fact that a change of grade can be accomplished within the existing right of way does not eliminate the need to negotiate with the abutting owner.
6-6.3.2 Procedure

A. When right of way is being acquired from the abutting owner, the Acquisition Agent proceeds with the acquisition in the normal manner (see Sections 6-2, 6-3, and 6-8). Damages, if any, will appear in the Determination of Value.

B. When no land is being acquired from the abutting property owner, the Acquisition Agent has the property owner execute the Consent to Change of Grade (WSDOT Form 262-101) (see Chapter 9) and voucher if appropriate (see Chapter 10), and prepares the transmittal as specified in Section 6-8. Compensation, if any, is determined through the appraisal process (see Chapter 4).

6-6.4 Leases

6-6.4.1 Rules

A. For the acquisition of temporary rights, WSDOT uses a lease if a permit or temporary easement does not secure adequate interest and if a lease is customarily used in private real estate practices involving the types of rights required.

B. If WSDOT is unable to acquire a materials source or other sundry site in fee and temporary rights are determined to be an acceptable alternate for the state, a lease is generally used.

6-6.4.2 Procedures

A. The Region RESM determines the appropriate instrument of conveyance to be used.

B. If it is impossible to negotiate a purchase of a materials site, the Region RESM:
   1. Obtains information from the Region Administrator on quantities and types of materials to be removed.
   2. Coordinates with the Assistant Director of Real Estate Services to determine the Attorney General’s opinion with respect to condemnation of the site.
   3. Obtains appraisal(s) and appraisal review(s).
   4. Submits recommendations to the Region Administrator regarding a proposed lease. These recommendations include:
      a. The Reclamation Plan as prepared in accordance with the reference cited in Chapter 1.
      b. The Attorney General’s opinion regarding condemnation of the site.
      c. The potential resale value of the site after reclamation.
      d. The amount of material required, and its estimated cost on a lease basis.
      e. Lease for ______________ (WSDOT Form 262-110) completed as specified in Chapter 9.
   5. Upon receipt of Region Administrator’s approval or rejection, takes the appropriate action:
      a. If approved, instructs the Acquisition Agent to secure the owner’s execution of the lease.
b. If disapproved and no alternative material site is available, submits the parcel for condemnation per Sections 6-10 or 6-11.

C. If so instructed, the Acquisition Agent proceeds as described in Section 6-5, obtains the owner's execution of the appropriate lease, concurrence with the concepts of the Reclamation Plan (see Section 6-5), and transmits the lease and other associated data as specified in Section 6-8.

6-6.5 Damage Claims
6-6.5.1 Initial Action

A. Upon receipt of a claim for damages from a property owner, the Region RESM starts a Diary of Right of Way Activities (WSDOT Form 260-001), and investigates the basis for the claim.

Note: A damage claim may be initiated by an oral communication and preliminary investigation made on the basis of that communication. An alleged damage must be claimed in writing, however, before it can receive any official status. No format is prescribed.

Note: Investigators are to obtain the facts, but are not to make any comments on cause or liability to the claimants.

Note: If a construction project is ongoing in the area of the claim, the Region RESM and the Project Manager should investigate the possibility of having the problem corrected by the contractor.

If the claim is based on taking or damaging of private property or property rights for which the owner has not been paid and rights will need to be acquired, the claim is a right of way responsibility; however, if the claim appears to be based on tort liability (i.e., contractor carelessness, etc.), the claim is forwarded to the department's Risk Management Office. If it is unclear who should have responsibility for the claim, the package should be forwarded to Risk Management for their input. If the claim is determined to be the responsibility of Risk Management, they will take over the processing of the claim and Real Estate Services will only be involved if requested by Risk Management to help with claim resolution. It is possible that some claims have elements that cross boundaries and responsibility may be shared.

Note: In general, Tort Claims have a three-year Statute of Limitations and Inverse Actions have a ten-year Statute of Limitations.

B. If the claim is determined to be a damage (the responsibility of RES), then the Region RESM submits a report to the DRES including:

1. The original written claim.

2. A copy of the Diary of Right of Way Activities stating the facts and conclusions developed as a result of the investigation of the case.

3. An estimate of the direct costs to WSDOT if WSDOT is found liable for settlement.

4. All related correspondence.
5. Maps and/or information identifying the geographic location.

6. Damage Claim Evaluation (WSDOT Form 220-025) signed by Region RESM.

C. The DRES opens a new Diary of Right of Way Activities by an entry showing receipt of the damage claim, maintains the file, and coordinates all further activities.

D. If there is any doubt about department liability, the DRES refers the case to the Attorney General Division for an opinion.

E. Upon receipt of the opinion of the Attorney General, the DRES forwards same to the Region Administrator with the directions to proceed as indicated in Section 6-6 as appropriate.

6-6.5.2 Procedures — State Liabilities

A. The Region Administrator’s staff prepares and submits the following data to document the Work Order Authorization (WSDOT Form 160-020) as specified in Chapter 1.

1. An estimate of all necessary costs including:

   a. Title report (if needed).

   b. Salaries (appraisers, reviewers, title examiners, acquisition agents, relocation agents, property management agents, administration).

   c. Travel and per diem.

   d. Appraisal fees.

   e. Specialist fees.

   f. Cash settlement.

   g. Relocation assistance benefits.

   h. Property management expenses.

   i. Costs (other than cash settlement) of state force or state contract activity to resolve damage.

2. A copy of the Diary of Right of Way Activities stating the facts and conclusions developed as a result of the investigation of the case.

3. A statement as to what costs are chargeable to construction.

   Note: If the damage or taking was the result of construction (e.g., owner’s basement cracked by vibration or blasting, etc.) the claim is chargeable to construction. If the damage was due to a taking of additional property, the claim is chargeable to “right of way acquisition.”

B. Upon receipt of the Work Order Accounting Plan, the Region Administrator expedites the settlement transaction by using the normal right of way acquisition procedures including appraisal and Determination of Value addressed to the dollar amount of the damages. Instruments and vouchers are drawn and executed as appropriate to the settlement.
C. When the transmittal is received in the Olympia Service Center, the DRES submits the settlement transaction to the Attorney General (AG) (Transportation Division) for certification and approval of the voucher. Upon approval, the AG stamps the voucher and signs it. The text of the AG’s stamp is as follows:

This voucher is in payment for private property taken or damaged for public use without just compensation having been first made to the owner in violation of Article 1, Section 16, of the constitution of the State of Washington.

Approved for Payment

______________________________

Assistant Attorney General

This step is required when the release of damages is being obtained due to an unconstitutional entry and use of private property without prior negotiation and agreement with the property owner.

D. If WSDOT’s settlement offer is rejected by the claimant, condemnation reports are informational and are submitted in the normal manner, but these reports are not acted upon directly by the Attorney General (Transportation Division). Instead, the Acquisition Agent informs the claimant that to obtain a settlement it will be necessary for the claimant to file legal action (i.e., inverse condemnation) against WSDOT.

6-6.5.3 Procedures — State Not Liable

When the Attorney General (Transportation Division) determines that WSDOT is not liable, the Region Administrator informs the claimant by letter, and sends a copy of the letter to the DRES. The Region Administrator calls upon the DRES and the Attorney General (Transportation Division) as needed in preparing the letter. The letter may be hand-delivered by the Acquisition Agent thus permitting a personal explanation.

6-6.6 (Reserved)

6-7 Ownership and Occupancy

6-7.1 General

A. Definitions

1. Ownership — WSDOT acquires ownership of property and/or property rights on the “payment available date” (when payment is made available to the owner).

2. Early Occupancy — The right to use and occupy the property subsequent to settlement agreement and prior to ownership.
B. In the case of lands occupied by persons, personal property, business, or farm operation, WSDOT acquires ownership, but cannot acquire occupancy without giving at least 90 days written notice to the occupant stating either a specific date to vacate or stating that the occupant will receive a further notice, at least 30 days in advance of the specific date by which he or she must move (see Chapter 12).

6-7.2 Rules

A. In the case of unimproved property, the appropriate occupancy clause is included in each instrument of conveyance (see Chapter 9). In cases involving improved properties, the occupancy clause is included in the Fixtures and Improvement Agreement, and is not included in the conveyance documents.

B. Any occupancy by the grantor or tenant after the state acquires ownership requires payment of rent to WSDOT. Any rent free occupancy is considered as an inducement for settlement and can be offered only with prior approval from the DRES.

C. Rental to the original displacee (owner or tenant) beyond the initial 90-day period is allowed only with prior written approval by the DRES (see Chapter 11).

D. Rental rates to original displacee may not exceed fair market rent.

6-7.3 Procedures

The Acquisition Agent:

A. Coordinates with the Property Management Agent to determine the amount of rent and any leasehold excise tax which will be required after the state acquires ownership (see Chapter 11).

B. Advises owner:

1. If property is occupied, the tenant will be required to surrender occupancy 90 days after the latter of:
   a. The date WSDOT acquired ownership of the property; or
   b. The occupant was given notice of his maximum relocation benefits amount. If personally only, 90 days from the ownership date.

2. That WSDOT is required by law to advise any tenants of their rights and benefits under the Uniform Relocation Assistance Act. The owner is advised that it is the WSDOT’s policy to discourage tenants from vacating the subject prior to the sale to the state.

3. That the owner’s right to collect the rents of tenants in occupancy terminates on the date WSDOT makes payment for the property available to the owner, and that the collection of such rents should be adjusted accordingly.

4. During negotiations, ensures that the owner is fully aware of the amount of rent to be collected after WSDOT acquires ownership and any other terms or conditions which may be required (i.e., leasehold excise tax).
C. Selects the appropriate occupancy clause from Chapter 9 and inserts it in the instrument(s) of conveyance.

D. Obtains execution of the instrument(s), and, if required, the Fixtures and Improvements Agreement.

E. When tenants occupy acquired improvements, the agent inquires of the tenant if a deposit has been paid to the landlord. The agent should determine the amount of the deposit and if it includes last month’s rent.

1. If there is no deposit of last month’s rent, the agent documents this fact in the diary.

2. If a deposit and/or last month’s rent exists, it must be dealt with by deducting said amount from the primary payment voucher and preparing a secondary voucher paying said amount to the tenant or tenants.

3. If the landlord elects to refund the amounts directly to the tenant, acquires evidence of this fact from both landlord and tenant, and documents this in the diary.

6-8 Acquisition Transmittal

After acquiring or clearing all interests in a parcel, the Acquisition Agent prepares the data package for transmittal.

Note: All interests in each respective parcel must be acquired, cleared or noted for future clearance (see Chapter 8). If any one interest cannot be acquired, cleared or noted for future clearance, the Acquisition Agent refers the parcel for condemnation using the procedures of Sections 6-10 and 6-11.

6-8.1 Right of Way Parcel Transmittal (WSDOT Form 262-048)

Having successfully negotiated a transaction, the Acquisition Agent prepares the Right of Way Parcel Transmittal, as follows:

A. Identification and Headings

1. Right of way project number, state route, title, federal aid number, control section number, and right of way number. Inserts official data for the parcel.

2. Grantors — Inserts the grantor’s name.

3. Inventory control number — To be completed by the Property Management Agent (see Chapter 11).

4. Contract ad date (if scheduled) — Insert the currently scheduled ad date for the first construction project that will require the availability of this property or property right.

5. Map sheet — Inserts appropriate map sheet number (e.g., 13 of 47).

6. From — Inserts closing Right of Way Agent’s name.
7. Initial/supplemental transmittal — Places an “X” in the appropriate box to indicate whether this is an initial or a supplemental transmittal, and inserts the date in the blank provided. If this is a “supplemental transmittal,” places an “X” in the appropriate box to indicate whether the “initial transmittal” was an “acquisition” or a “condemnation,” and inserts the date of the initial transmittal in the blank provided.

B. Transaction Data

1. Real Property Voucher(s) — Inserts the amounts of each voucher.

2. Instruments — In the space provided, indicates the types of executed instruments attached (e.g., warranty deed, partial reconveyance, exchange agreement).

3. Encumbrance Report — Shows the method of clearance of every encumbrance on the title report and on all supplemental reports (see Chapter 8).

4. Mailing Addresses — Lists the correct names and mailing addresses for all parties signing the voucher(s).

5. Parcel Number — Inserts official data for the parcel.

C. Acquisition Agent’s Summary (back side of form)

1. Settlement — Places an “X” in the appropriate box to indicate whether the acquisition was “total” or “partial.” Inserts the amount of the settlement before adjustments for salvage, performance bond, statutory evaluation allowance, etc. Inserts in the blanks provided: the right of way area, date of deed, amounts and dates of all offers. Gives any required explanations in Section C, “Remarks.”

2. Occupancy — Places an “X” in the appropriate box to indicate whether the property being acquired was “occupied” or “unoccupied” on the date of the Initial Offer Letter.

   Note: Property is “occupied” if persons are in residence, if it is being used as a part of a business or farm operation, or if it is being used for storage of personality.

3. Certification — Inserts the agent’s name, signs, and dates the certificate.

4. Remarks — Enters here any pertinent explanations, information, etc., including, if appropriate, the fact that the parcel had been previously turned in for condemnation.

6.8.2 Right of Way Parcel Package

In addition to the Right of Way Parcel Transmittal (WSDOT Form 262-048), the remainder of the package is made up of the following attachments (as appropriate) in the order listed:

A. Memo: Special Handling — Attaches the memo to the face of the acquisition transmittal form (see Section 6-8.3).
B. Administrative Settlement — Attaches letter justifying any administrative settlement or makes appropriate diary entry (see Section 6-9).

C. Diary of Right of Way Activities (WSDOT Form 262-001) — Assures that the diary is complete and that it is signed and dated.

D. An Executed Original Real Property Voucher(s) (WSDOT Form 262-039) — Also attach TRAINS PAYMENT VOUCHER (WSDOT Form 134-003).

E. Instrument(s) — Originals only required.

F. Escrow Agreement (WSDOT Form 262-009) — Includes the white, canary, and pink copies with the transmittal to Olympia Service Center, completely filled out and signed.

G. Memo: Construction Item — Includes the original and two copies of memo (Construction IOC) signed by the Region Administrator authorizing a special construction item (see Section 6-4.4).

H. Offer Letter and Revisions — Assures that the delivery data is completed on all.

I. Title Report — Assures that the title report and all supplemental reports are included, and are not older than six (6) months.

J. Letter: Instrument Guarantee — Includes, if applicable, a letter from an interested party guaranteeing that a required instrument will be executed upon receipt of funds (usually Partial Satisfaction of Mortgage or Partial Reconveyance).

K. Letter: Taxes — Includes, if applicable, (1) a letter from the mortgagee guaranteeing that the real estate taxes will be paid out of the reserves, or (2) a letter signed by the grantors and approved by the County Assessor requesting that the real estate tax lien be set over to the remainder of the property.

L. Affidavits/Comments — Includes any necessary affidavits or documents.

M. Miscellaneous Correspondence — Includes correspondence relating to the transaction. Assures that all correspondence from the grantor is included. Includes bills/receipts for statutory evaluation allowance, etc.

N. Relocation Eligibility Report (WSDOT Form 264-003).

O. Notice of Relocation Rights Letter.

P. Salvage Appraisal Report (WSDOT Form 263-003) — Accounts for salvage values.

Q. Fixtures and Improvements Agreement (WSDOT Form 263-005) — Itemizes all fixtures and improvements acquired.

R. Determination of Value (WSDOT Form 261-023) — Includes all DVs, but leaves them attached to their respective appraisal reports.

S. Appraisal Report — Includes all appraisal reports.
(Use Memorandum Format)

TO: Director, Real Estate Services
FROM: Right of Way Agent (Name)
SUBJECT: Special Handling
Project Title
FA ______
C.S. ______
Parcel Number ______

Please provide special handling for the above-reverenced parcel because:

(State the justification for special handling here.)

Recommended by: ___________________________ Approved by: ___________________________

Region Real Estate Services Manager Date Director, Real Estate Services Date

Memo: Special Handling
Figure 6-8.3.3.2A
6-8.3 Special Handling

6-8.3.1 General
A. “Hardship” acquisitions are automatically given priority handling both in region and in the Olympia Service Center.

B. All other cases receive normal routing unless an approved “Memo: Special Handling” is attached to the face of the Right of Way Parcel Transmittal.

6-8.3.2 Rules
Transactions are given “special handling” only in emergencies, such as:

A. A threat of irreparable damage to the grantor in terms of monetary loss or burden.

B. Extreme hardship.

C. An urgent public relations problem where the state is correcting its own error.

D. Tax payment.

E. Ad date in jeopardy.

6-8.3.3 Procedures
6-8.3.3.1 “Hardship” Acquisition
All “hardship” acquisitions have already been authorized for special handling. Therefore, the Acquisition Agent stamps or writes in large red letters “Hardship” on the face of the Right of Way Parcel Transmittal to assure that the transmittal will receive “special handling.”

6-8.3.3.2 Memo: Special Handling
A. In compliance with this section, the Acquisition Agent prepares a memo requesting that the transaction be given special handling (see Figure 6-8.3.3.2A).

B. The Region RESM reviews the memo, and if approved, signs the memo in the space provided.

C. The Acquisition Agent attaches the “Memo: Special Handling” to the face of the Right of Way Parcel Transmittal.

6-8.3.3.3 Priority of Files
A. All “hardship” acquisitions and all transmittals with a signed “Memo: Special Handling” take precedence over any backlog of regular transmittals or condemnation reports in the region’s and Olympia Service Center’s processing procedure.

B. All personnel expedite the review of the transmittal and hand-carry the transmittal to the next station in the review process.
6-8.4 Region Processing

Region processing includes the following functions: title, property management, relocation assistance, appraisal, and accounting. The transmitting acquisition agent should not be responsible for any part of the region review of the transmittal, but makes certain all appropriate entries are made in computer.

6-8.4.1 Title Review

The Region RESM makes a detailed review of the entire data package, to assure that WSDOT will acquire an insurable title in the interest required. This review includes the following:

A. Instruments

Verification that all instruments needed to convey and/or clear title either have been executed or are provided for by the escrow instructions. Such verification includes the following items:

1. The project title is included in heading and at the first opportunity in the text (usually this will be in the legal description of the WSDOT's acquisition) exactly as it is given on the approved Right of Way Plans. Subsequent references in the text of the instrument are to "said highway." When applicable, the project title includes the pit or stockpile site number.

2. The county is named.

3. A valid consideration which is not in conflict with the actual amount to be paid is stated. (e.g., instrument should not show "10 dollars and other valuable considerations" when only $5 cash is being paid.)

4. The names of the grantors agree with those given in the title report, and the signatures and acknowledgments conform exactly with the grantor clause.
   a. The marital status is stated (see Chapter 9).
   b. If the grantor is a political subdivision or a corporation:
      (1) The corporate name appears exactly as shown in the title report, the corporation is licensed to do business in the state of Washington and its license fees have been paid.
      (2) The corporate seal, if required, agrees with the title report and grantor clause.
      (3) The corporate form of acknowledgment is used, the signing officers are identified, and the data package contains a corporate resolution, if required.
      (4) If a political subdivision or municipal corporation, the conveyance is in accordance with applicable statutes, and the data package contains an appropriate resolution.
      (5) If a church, the bylaws permit the method of conveyance.
c. If the grantor is a partnership:

   (1) All partners and their spouses have executed the instrument, unless evidence is provided which shows that certain partner(s) have the right to convey for the partnership.

   (2) The conveyance conforms with applicable statutes.

d. If the signature and acknowledgment are by an attorney-in-fact, administrator, executor, or guardian, ascertains that the data package includes the authority for such signature and the proper acknowledgment.

5. The legal description of the grantor’s property is given and the areas and interests conveyed conform to the approved Right of Way Plan.

6. In a partial acquisition:

   a. A check of the legal description of WSDOT’s acquisition on the Right of Way Plan affirms that all of the right of way across the entire ownership has been included.

   b. The access clause, if required, complies with the access requirements of the Right of Way Plan. If not, check that the data package contains the Regional Administrator’s approval of the change in the Access Plan and that an appropriate map revision has been requested.

   c. Clauses for any special construction items (e.g., road approach, right of entry to construct, if required) shown on the Right of Way Plan have been included. Also check that the data package includes construction item memos and, in the case of construction items not on the Right of Way Plan, that these memos have been approved by the Regional Administrator. Also, verify that the special consideration is shown on the principal Real Property Voucher.

   d. The area given in the specific details clause is identical to that shown on the Right of Way Plan, the reviewing Appraiser’s Determination of Value, and the principal Real Property Voucher. Also, check that the most recent revision of the Right of Way Plan is included in the specific details clause.

7. The occupancy and any other necessary clauses (e.g., straddle, moving improvements) have been included. Also, check that the principal Real Property Voucher incorporates the effects of any of these special clauses. If fixtures or improvements are involved, also check that the data package includes a Fixtures and Improvements Agreement.

8. The parcel number is shown on the lower right corner of each page of the instruments.

9. In the acknowledgment:

   a. The date is the same as or later than the date of execution.

   b. The county (and state) in which the instrument was executed is named.
c. The acknowledging official has signed and sealed the acknowledgment, his commission has not expired, and his place of residence and commission expiration date are shown.

B. Escrow — If the transaction is to be escrowed, checks to assure that the Escrow Agreement (WSDOT Form 262-009) has been prepared in accordance with Chapter 8.

C. Vouchers — Reviews all real property vouchers to assure that they have been prepared and executed in accordance with Chapter 10.

D. Data Package — Reviews the data package to verify that:
   1. All needed department forms (and the proper number of copies of each) have been included in the data package.
   2. If improvements or fixtures are involved in the transaction: that the data package includes a Fixtures and Improvements Agreement.
   3. The Encumbrance Report on the Right of Way Acquisition Transmittal, includes all encumbrances shown on the title report and all supplementals, and that they have been cleared or provided for in the Escrow Agreement. (If the acquisition is not for highway purpose, the agent needs to clear all encumbrances including utilities as the Utilities Engineer will not be clearing any easements.)
   4. The items included in the data package are in the order required.

E. Actions — The Region RESM takes the following actions:
   1. If additions or corrections to the data package must be made: returns the data package to the Acquisition Agent explaining the problem and recommending a solution.
   2. If the transaction is complete and correct:
      a. Posts the acquisition to the appropriate Right of Way or Sundry Site Plan.
      b. Delivers the acquisition data package to the next region review station.

6-8.4.2 Property Management Review

The procedures for property management review of the acquisition data package are given in Chapter 11.

6-8.4.3 Relocation Assistance Review

The procedures for relocation assistance review of the acquisition data package are given in Chapter 12.

6-8.4.4 Appraisal Unit Review

The procedures for the appraisal unit review of the acquisition data package are given in Chapter 4.
<table>
<thead>
<tr>
<th>Description</th>
<th>Color</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee Instruments</td>
<td>Red</td>
<td>Solid (Unbroken) line enclosing the area conveyed.</td>
</tr>
<tr>
<td>Warranty Deed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Warranty Deed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quitclaim Deed (conveying fee title)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judgment and Decree of Appropriation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Easements</td>
<td>Blue</td>
<td>Solid line enclosing the area conveyed (on blue prints, use yellow).</td>
</tr>
<tr>
<td>Leases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quitclaim Deed (not conveying fee title)</td>
<td>Red</td>
<td>Dashed (broken) line enclosing the area involved.</td>
</tr>
<tr>
<td>Release of Damages</td>
<td></td>
<td>(Change to solid line where final documents conveying fee title have been processed.)</td>
</tr>
<tr>
<td>Possession and Use Agreement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Order Adj. Possession and Use Compensation Agreements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Declaration of Taking Permits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limited Access</td>
<td>Yellow</td>
<td>Solid line across the parcel at the limited access line.</td>
</tr>
<tr>
<td>Road Approach</td>
<td>Red</td>
<td>Shown as R/A at the point where access is permitted.</td>
</tr>
<tr>
<td>Contracts for Sale of State-owned Lands</td>
<td>Blue</td>
<td>Hachures across the tract (on blue prints, use yellow).</td>
</tr>
<tr>
<td>Conveyances of State-owned Lands</td>
<td>Blue</td>
<td>Shade in the entire area (on blue prints, use yellow).</td>
</tr>
</tbody>
</table>

Real Estate Services Acquisition Color Codes

*Figure 6-8.5B2b*
XYZ Title Insurance Company
Attention: Escrow Department

Re: Our Reference: Order Number
State Route
Parcel Number

Gentlemen:

In connection with the above-referenced escrow and order for title insurance, the State of Washington has approved the transaction and there are enclosed the following:

1. State warrant in the sum of $________ payable to your company as escrow agent, which sum includes escrow fee of $________ and sales tax of $________.

2. Escrow Agreement dated ________________

3. ________________ dated ________________ executed by ________________, to the State of Washington, conveying the lands described in your preliminary commitment. Said ________________ was accepted and approved for the State of Washington on ________________.

Please pay all taxes and assessments from the state provided funds referred to in (1), above. Do not prorate. The balance of the current year’s taxes will be cancelled by the county and any refund due the seller may be obtained by presenting to the county treasurer the “tax refund” letter we have sent directly to the seller.

Please do not withhold any sums to assure payment of any service charges. Any additional fees to be paid by buyer, including recording fees, are to be billed directly to our region office in ________________. Upon compliance with the terms of said Escrow Agreement and this letter, please issue your standard form policy in the amount of $________. Said policy is to ensure and vest in the State of Washington in fee simple or other interest appropriate to this transaction. The premium for this policy has been paid from other funds.

The following summarizes the required disposition of all exceptions shown on your preliminary report dated ________________:

On the closing detail statement of the reverse side of the Escrow Agreement are the requirements to be shown in the seller’s escrow closing statement. Please show clearly the date the closing of the escrow.

You will please proceed with the closing of the escrow in accordance with the instructions. Upon completion, return to this office to the attention of ________________, the recorded warranty deed, title insurance policy and a copy of your seller’s closing statement, endorsed and dated thereon by the grantors of their approval and acknowledgment of receipt of the set sums due.

Sincerely,

Title and Condemnation Program Manager
By: ________________
Title Officer

Enclosures

cc: ________________ Regional Real Estate Services Manager
Olympia Service Center Accounting
6-8.4.5 Computer Tracking System

The Region RESM verifies that all previous computer entries are accurate and completes entries for: the date the owner signed; the amount of compensation; the type and date of administrative settlement, if any; the date the parcel is transmitted to Olympia Service Center — "To Right of Way Approval."

6-8.4.6 Final Region Review

Upon completion of all other steps in the region review process, the acquisition data package is reviewed by the Region RESM. If satisfactory:

A. Signs and dates the region action block of the Right of WayParcel Transmittal.

B. Assures that one copy of the Real Property Voucher (WSDOT Form 262-039) is placed in the region parcel file.

C. Transmits one copy of the Real Property Voucher to the appropriate Project Engineer.

D. Transmits the acquisition data package to the DRES.

6-8.5 Olympia Service Center Processing

A. All acquisition transmittals are date-stamped by the Mail Clerk and are submitted to the Title and Condemnation Program Manager for entry into computer and to check TRAINS voucher for coding and make corrections as needed.

B. All acquisition transactions are routed as follows:

1. To the Project Coordinator for notation of receipt.

2. To the Title and Condemnation Program Manager who:

   a. Assures that good and sufficient title has been acquired by the state. Instruments are processed only if an approved map is on file. If the instrument does not agree with the approved plan, the instrument is placed in a "hold" status until an approved plan revision is received or the instrument is corrected to agree with the current approved plan.

   b. Posts the acquisition on the appropriate Right of Way or Sundry Site Plan using the color codes specified in Figure 6-8.5B2b. If the parcel had been previously submitted for condemnation action, prepares and dispatches to the Attorney General's Office, Memo: Stop Condemnation Request (WSDOT Form 262-077).

   c. Prepares the Closing Order Worksheet (WSDOT Form 262-007). If appropriate, prepares the Escrow Transmittal Letter (Figure 6-8.5B2c), for signature of the Title and Condemnation Program Manager.

   d. Obtains signature of DRES.

   e. In escrow cases:

      (1) Executes the Escrow Transmittal Letter and dispatches it, along with the Real Property Voucher, the TRAINS voucher and other required attachments to the Olympia Service Center accounting office for processing of warrant.
(2) Escrow package and mails to title insurance company (escrow agent).

(3) Receives closing statement from the title insurance company, and dispatches appropriate letter to grantor verifying the state's possession date.

(4) Transmits closing documents to title company.

(5) When notified by the title company of recording and compliance with closing instructions, requests warrant from accounting.

(6) When warrant is received, mails (Certified Mail) warrant and payment letter.

f. In non-escrow cases:

(1) Transmits closing orders and instruments to title insurance company that prepared the title report.

(2) Upon receipt of notice of clear title from the title insurance company, prepares appropriate letter to the grantor transmitting warrant and verifying WSDOT's possession date. Dispatches letter, the two Olympia Service Center copies of the Real Property Voucher, and other required attachments to the Olympia Service Center accounting office for final processing and payment.

g. In the case of transmittals originating with the Attorney General (AG) (OIPU, J & D, etc):

(1) Prepares a warrant request, including request for special handling, and transmits it, the original and three copies, of the Real Property Voucher, and any secondary vouchers with supporting documentation, Determination of Value, and AG closing report (J&D's only) to the Olympia Service Center accounting office for processing and payment.

(2) Upon receipt of warrant causes same to be hand carried to the AG section. Upon receipt of copy of AG dispatch letter to the court, prepares appropriate letter to condemnee advising of WSDOT's right of occupancy date.

(3) Transmits closing order to title insurance company that prepared the title report.

h. In all cases:

(1) Enters the closing order date into computer.

(2) Upon receipt of the WSDOT's copy of the closing order from the title insurance company indicating compliance with the state's instructions, enters date of receipt in Olympia Service Center as clear title date into computer.
6-9 Administrative Settlement

6-9.1 General

If it is impossible to reach an agreement to purchase based upon just compensation, WSDOT:

A. Attempts acquisition by means of an administrative settlement.

B. Files condemnation proceedings (see Sections 6-10 and 6-11).

6-9.2 Rules

A. The Region RESM reviews the state of acquisitions on the project before permitting the acquisition of a parcel for an amount in excess of that given on the Determination of Value (WSDOT Form 26l-023). Authorization to proceed with an administrative settlement is given only when it has been determined that such action will not unduly jeopardize the remaining acquisitions on the project.

B. In each case, the effect of an administrative settlement upon the amount of benefits under the relocation assistance program is considered.

6-9.2.1 Region Level Settlement

The Region Real Estate Services Manager is authorized to approve settlements of up to $20,000 above the DV on acquisitions where the DV is under $135,000; up to 15 percent above the DV on acquisitions where the DV is above $135,000, with the maximum administrative settlement not to exceed the DV plus $75,000.

The Region RES Manager may further delegate, in writing, portions of this authorization to Region RES staff, as he or she sees fit. The Region RES Manager is also responsible to make sure there is adequate funding for these administrative settlements.

Any requests for settlements above the region authorization will be addressed by the Administrative Settlement Board, consisting of the Director, RES, the Deputy Director, RES, and the Assistant Director, RES, for Appraisal Services.

Additionally, please modify your Diary Entries to provide the following:

1. The name of the Acquisition Agent shown as the first diary entry.

2. A place by the Administrative Settlement Amount for the initials of the Region RES Manager’s concurrence.

3. A signature line for the Region RES Manager at the end of the diary entries whereby he/she concurs with the diary documentation and settlement justification.

6-9.2.2 Administrative Review Board

A. The Administrative Review Board members are:

1. Director, Real Estate Services

2. Assistant Director, Real Estate Services

3. Appraisal Program Manager
(Use Memorandum Format)

TO: Director, Real Estate Services
FROM: Region Real Estate Services Manager
SUBJECT: Administrative Settlement
(Project Title)
FA
CS Job Number
Parcel Number Owner (surname)
Right of Way Plan Sheet _____ of _____ Sheets

Amount of Approved DV $__________.
Amount of Proposed Administrative Settlement $__________.
Amount of Proposed Total Payment $__________.

(This letter should contain all information needed for the settlement decision. Here are topics that should be addressed, please adjust to fit circumstances.)

1. Detailed explanation of the justification for the administrative settlement.
2. Brief summary of the basis for the owner’s refusal of the state’s offer.
3. Counter offers and negotiations relative thereto (a copy of the diary may be sufficient).
4. Condemnation will take additional time and money, i.e., updating for trial, pretrial, conference, staking of right of way, attorney’s expenses, and witness fees (appraisers, consultants, etc.).
5. Trial risks based on experience in the particular county.
6. Anticipated range of testimony on behalf of the property owner.
7. Explanation of the effect of the proposed settlement of any Relocation Assistance program benefits and on any other parcel(s).
8. Any other pertinent information and comments.

Recommended By: Approved By:

______________
Region Real Estate Services Manager

______________
Director, Real Estate Services

______________
Assistant Director, Real Estate Services

______________
Appraisal Program Manager

Memo: Administrative Settlement
Figure 6-9.3.1B3
B. The affirmative vote of any two members determines whether WSDOT will accept an administrative settlement that exceeds the limits set in 6-9.2.1.

C. One board member alone may make the decision if no others can be contacted within a reasonable time period.

6-9.3 Procedures

6-9.3.1 Region Actions

A. The Acquisition Agent:

1. Makes every sincere effort to negotiate a purchase for the just compensation as listed in the Determination of Value. This must at least meet the minimum negotiation requirements given in Section 6-10.

2. If all efforts to negotiate a settlement at the just compensation fail, discusses the parcel (especially: offers, owner demands, counteroffers, etc.) with the Region RESM.

B. The Region RESM:

1. Reviews the Diary of Right of Way Activities — Acquisition and weighs all factors affecting the parcel, including:
   a. Basis for owner’s refusal of the WSDOT’s offer.
   b. Owner’s counteroffers, etc.
   c. Status of negotiations on the project, including negotiation cut-off date.
   d. Costs of condemnation.
   e. Effects upon relocation assistance program benefits.
   f. All available appraisals, including the owner’s appraisal, if any.
   g. Other pertinent factors, such as anticipated trial testimony, claim for evaluation allowance, etc.

2. May instruct the Acquisition Agent either:
   a. To submit the parcel for condemnation.
   b. Negotiate a settlement in accordance with Section 6-9.2.

3. If the administrative settlement is to be for an amount greater than that authorized to the Region RESM by this section, prepares the “Memo: Administrative Settlement” (see Figure 6-9.3.1B3), and transmits it to the Olympia Service Center for the appropriate approvals. The memo explains the rationale for settlement to an extent consistent with the circumstances and need, the amount of money involved, and is retained as a permanent document in the file.

4. Upon receipt of the approved administrative settlement memo, transmits it to the Acquisition Agent for inclusion with the Right of Way Acquisition Transmittal, with instruction to negotiate an administrative settlement.

5. Without approval for an administrative settlement, instructs the Acquisition Agent to submit a Negotiator’s Report for Condemnation.
C. The Acquisition Agent:

1. If instructed to condemn, proceeds as described in Sections 6-10 and 6-11.

2. If instructed to negotiate an administrative settlement:
   a. Notes the authorization to proceed in the Diary of Right of Way Activities and, if the administrative settlement is within the appropriate limits, obtains the signature of the Region RESM on this diary notation.
   
   b. Makes an oral offer to the owners to settle for the amount of the just compensation plus the administrative settlement. Assures that the owners are aware of the effects that an administrative settlement may have upon the amount of relocation assistance benefits.

   Note: No written offer letter is presented on an administrative settlement.

   c. If the owners accept the administrative settlement, prepares and obtains execution of the necessary instruments, vouchers, etc., as in a normal closing. Then prepares the Right of Way Parcel Transmittal and its accompanying data package as described in Section 6-8.

   d. If the owners refuse the administrative settlement, prepares the Negotiator’s Report and its accompanying data package as described in Sections 6-10 and 6-11.

6-9.3.2 Olympia Service Center Actions

A. The Administrative Review Board:

1. Meets to pass upon the merits of each proposed administrative settlement which has been referred to it for approval.

2. The proposed administrative settlement is approved if at least two members of the Administrative Review Board approve and sign the “Memo: Administrative Settlement” (see Figure 6-9.3.1B3). In an emergency, (when the other members are unavailable), one member may make the decision. In this case, an appropriate explanation is added to the “Memo: Administrative Settlement.” After the fact approval by the other members of the Administrative Review Board may be added by their execution of the “Memo: Administrative Settlement.”

B. The DRES:

1. If the Administrative Review Board approves the proposed administrative settlement, sends a copy of the approved “Memo: Administrative Settlement” to the RESM and the original to the Title and Condemnation Program Manager.

2. If the Administrative Review Board disapproves the proposed administrative settlement, prepares a memo documenting the reasons for disapproval, and distributes the memo as described above.
6-10  Condemnation, State

6-10.1  General

When title to private property, or property rights, needed for transportation purposes cannot be acquired by negotiation, the state exercises its power of eminent domain and acquires or clears the interests of all private parties by condemnation action.

The probable necessity to condemn is determined by the Region RESM when efforts to obtain a settlement with the owner have not been successful, or title cannot be conveyed to the state. The condemnation action is begun by submitting a Negotiator's Report (WSDOT Form 262-080) to the Assistant DRES for review as to adequacy of negotiations and other data. If the Assistant DRES determines that the parcel is a candidate for additional OSC negotiation, assigns the parcel to the Litigation and Acquisition Specialist who works with the region and the Attorney General to attempt to come to a negotiated settlement. If no settlement can be reached, if project ad dates require, or if the parcel is deemed not to be a candidate for additional negotiation, parcels are submitted to the Attorney General, Transportation Division for court action. Upon referral of a case to the Attorney General, all offers made by the state during negotiations are withdrawn. The Attorney General then assumes full responsibility for all aspects of the acquisition, except that settlements negotiated by the Assistant Attorney General must be coordinated with and approved by the DRES.

6-10.2  Rules

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

A. The final judgment of the court is that WSDOT cannot acquire the real property by condemnation; or

B. The condemnation proceeding is abandoned by WSDOT other than under an agreed-upon settlement; or

C. The court having jurisdiction renders a judgment in favor of the owner at least 10 percent higher than the state's 30 day offer.

6-10.2.1  In-State Owners

A. No parcel may be submitted for condemnation until the Acquisition Agent has met with the owner or owner's designee and discussed WSDOT's offer at least three times (including the meeting during which the Initial Offer Letter is presented).

Note: Telephone calls to set up an appointment do not count as a meeting unless the owner refuses to grant an appointment and instructs the Acquisition Agent to submit the parcel for condemnation.

B. If it is impossible to make WSDOT's offer in person because the owner refuses to grant any appointments, the Acquisition Agent proceeds in the same manner as dealing with an out-of-state owner, except that a paragraph is adopted to the offer letter requesting an appointment and a chance to explain the state's offer in detail.
6-10.2.2 Out-of-State Owners

If it becomes necessary to condemn a parcel that belongs to an out-of-state owner, the Acquisition Agent sends the "Condemnation Notice" letter (see Section 6-3.) not later than the date on which the Negotiator's Report is prepared.

6-10.2.3 Exceptions

The Acquisition Agent may deviate from the rules in Section 6-10 under the following circumstances:

A. The owner (owner's attorney) rejects the state's offer and instructs the Acquisition Agent to submit the parcel for condemnation.

B. The owner is abusive and/or orders the Acquisition Agent to "get out."

6-10.2.4 Pre-Condemnation Agreements

A. Possession and Use Agreement. If, at the conclusion of negotiations, the only remaining issue is the amount of the just compensation, the Acquisition Agent attempts to obtain a Possession and Use Agreement (WSDOT Form 262-075) from the owners if so directed by the Region RESM.

B. Compensation Agreement for Condemnation (WSDOT Form 262-076). This instrument is for use in those circumstances where the property owner is in agreement with the state's offer of compensation, but is faced with title complications which make it impossible to convey good title, or for the Acquisition Agent to perfect the title through clearance of encumbrances. If the agreement is executed by the person or persons who appear to have the paramount claim to the property, the state will be safe in entering upon the property under the terms of the right of immediate entry contained in the agreement, even prior to the actual clearing of the title encumbrances or the entry of the judgment and decree.

C. Compensation Agreement for Condemnation shall be secured by the Acquisition Agent only at the request of the Region RESM who shall make his decision (1) upon the same criteria as to time set forth in A above and (2) consultation with the Title and Condemnation Program Manager.

D. If either of the above forms is sought and executed, it will be forwarded to Olympia Service Center as a separate transmittal. The Negotiator's Report will be a separate transmittal which is to include a copy of the Possession and Use Agreement or Compensation Agreement and voucher(s) for the information of the Assistant Attorney General assigned to the case.

6-10.3 Procedures

6-10.3.1 Region Processing

A. If it becomes necessary to submit a parcel for condemnation, the Acquisition Agent:

1. When so instructed by the Region RESM, determines whether the owners will sign a Possession and Use Agreement or a Compensation Agreement for Condemnation as appropriate to the case.
a. If so, prepares and obtains execution of the appropriate agreement, a Real Property Voucher, if appropriate, and all other documents normal to the acquisition.

b. If not, notes the refusal to sign the agreement in the Diary of Right of Way Activities — Acquisition.

2. Completes the Negotiator’s Report according to the instructions thereon.

   a. If operating under the critical project deviation procedure and if the owner does not accept the state’s offer at the meeting at which the Initial Offer Letter is presented:

      (1) Avoids taking any coercive action by simultaneously:

          (a) Continuing the negotiations to meet the minimum requirements without notifying the owner of the critical project deviation procedure.

          (b) Preparing and submitting the Negotiator’s Report, but reserving additional negotiating time by inserting in the remarks section of the report: “Under the critical project deviation procedure, negotiations will continue until ____________.”

      (2) If the subsequent negotiations are successful, submits a supplemental Right of Way Acquisition Transmittal as specified in Section 6-8.

      (3) If the subsequent negotiations are unsuccessful, submits a supplemental Condemnation Report at the end of the additional time.

b. If dealing with an out-of-state owner, mails the “Condemnation Notice” (see Section 6-3) not later than the date of the Negotiator’s Report.

c. If the parcel is “Registered Land” (see Section 6-5), notes that fact in the remarks section of the report.

3. Assembles the data package required for the condemnation transmittal. This data package includes at least the following:

   a. The Agent’s Diary of Right of Way Activities.

   b. Title report.

   c. Appraisal report and latest approved DV.

   d. Offer letter.

   e. Copies of all correspondence.

   f. Copy of warranty deed (if prepared).

   g. Copy of Possession and Use Agreement or Compensation Agreement for Condemnation, if obtained, (and with voucher copies where appropriate) (see Section 6-10)). Original documents and voucher(s) are sent as a separate transmittal.
h. Fixtures and Improvements Agreement and Salvage Appraisal Report (if any improvements involved) (see Chapter 11).

i. Relocation Eligibility Report Form (WSDOT Form 264-003).

4. Submits the Negotiator's Report and its accompanying data package to the Region RESM.

B. The Region RESM:

1. Contacts the owner (or owner's attorney) and attempts to negotiate a settlement. Takes every care to avoid any charge of coercion (see Section 6-1).
   a. Completes a Diary of Right of Way Activities — Acquisition indicating the results of this contact.
   b. If a settlement is arranged, converts the data package to an Acquisition Transmittal by following the procedures given in Section 6-8.
   c. If it is not possible to arrange a settlement, adds the diary (a above) to the condemnation data package, and notes the addition in the "remarks" section of the Condemnation Report.

2. Coordinates with the Region Administrator to determine the exact procedures and routing for the region review of the Condemnation Report and its accompanying data package. As a minimum, the region processing includes: title, appraisal, and computer system. The Acquisition Agent should not be responsible for any part of the region review.

6-10.3.1.1 Title Review

The Region RESM adapts the procedures given in Section 6-8 to make a detailed review of the data package.

6-10.3.1.2 Computer Tracking System

The Region RESM inputs condemnation data into the computer tracking system.

6-10.3.1.4 Final Region Review

Upon completion of all other steps in the region review process, the condemnation data package is reviewed by the Region RESM. Upon concurrence, he signs and dates in the region action block of the Negotiator's Report, and transmits the data package to Olympia Service Center.

6-10.3.2 Olympia Service Center Processing

A. The Title and Condemnation Program Manager:
   1. Inputs appropriate data into the computer tracking system.
   2. Transmits the condemnation data package to the Assistant DRES.

B. The Assistant DRES reviews the Negotiator's Report and its accompanying data package to determine whether adequate efforts to obtain a settlement were made.
   1. If not, returns the package to the region for further negotiation.
2. If the parcel is felt to be a candidate for additional OSC negotiations, assigns parcel to the Litigation and Acquisition Specialist as per 6-10.1.

3. If no further negotiations are desired, returns the condemnation transmittal to the Title and Condemnation Program Manager for processing.

4. If the transmittal is a “hardship” or “protective buying” condemnation, weighs all factors (e.g., nature of the hardship, state’s construction schedule, etc.) and recommends to the DRES whether to proceed to immediate condemnation or to let the case await the normal acquisition schedule.

C. The DRES reviews the recommendations of the Assistant DRES, and upon concurrence, coordinates with the Region RESM:

1. If they agree on the necessity for further attempts at a negotiated or an administrative settlement, returns the file to region for action.

2. If they do not agree on the necessity for further action and/or if the parcel is a “hardship” or “protective buying” case, convenes the Administrative Review Board by conference call for its decision. Action is taken in accordance with the Administrative Review Board’s decision. The DRES documents the results of the board meeting, and provides a copy to the Region RESM.

3. If the decision on a “hardship” or “protective buying” condemnation is to await the normal acquisition schedule, the DRES sends a letter to the owner advising of the decision, and directs a copy of the letter to the Region RESM.

D. The Title and Condemnation Program Manager:

1. Reviews each transmittal that has been approved for condemnation processing to assure that all departmental and federal negotiation requirements have been met.

2. Prepares exhibit maps by color coding five copies of the approved Right of Way Plan to show the total before ownership and the interest (e.g., fee, easement, etc.) to be acquired. One copy is certified for use as a court exhibit.

3. Checks the legal description given in the title report for the “before” ownership against the Right of Way Plan to ensure conformance.

4. Prepares a legal description of the interest to be acquired, including the Worksheet: Description of Lands Being Condemned (WSDOT Form 262-056) where applicable.

5. Prepares a list of all parties in interest (including: names, addresses, and instructions as to where the parties may be located for legal service). The prime source of this information is the Negotiator’s Report; however, other sources (e.g., the Acquisition Agent, title report, data from adjacent parcels, etc.) are used as required.

6. Coordinates with the Assistant Attorney General as needed to determine recommendations on the makeup of blanket condemnations.
7. Groups the parcels for filing of one or more blanket condemnation actions.
8. Prepares a data package for each parcel being condemned including:
   a. Exhibit maps.
   b. Title reports.
   c. Legal description(s).
   d. List of parties in interest as defined in 5 above.
   e. Appraisal reports.
   f. Determination(s) of value.
   g. The remainder of the Negotiating Agent’s data package forwarded with the Negotiator’s Report.
   h. Where limited access is involved:
      (1) Copy of Resolution by Transportation Commission, and
      (2) Certificate for Findings and Order.
   i. A cover letter to the Attorney General’s division requesting that the required interests be acquired by legal action. A single cover letter is used to forward all parcels grouped into a blanket condemnation pursuant to 7 above.
9. Makes the following distribution of the data packages:
   a. Attorney General, Transportation Division.
   b. Region Administrator.
   c. Olympia Service Center parcel file.
10. Examines all Right of Way Plan revisions and supplemental title reports to determine their effects, if any, on any pending condemnation case. As a result, supplies the Attorney General, Transportation Division, with corrected descriptions, maps, lists of interested parties, etc.
11. Upon receipt of the Memo: Stop Condemnation Request (WSDOT Form 262-077) (see Section 6-8) and upon confirming that an appropriate settlement has been obtained, sends a letter to the Attorney General, Transportation Division, requesting that the parcel be deleted from the condemnation action.

6-10.3.3 Attorney General’s Processing

The Assistant Attorney General who is assigned to act as the trial attorney:

A. Prepares pleadings.

B. Files the action in the superior court for the county in which the property is located, and secures a hearing date for obtaining the Order Adjudicating Public Use (OAPU).

C. Files the Lis Pendens with the County Auditor for said county.
D. Obtains the OAPU and secures a trial date.

E. In preparing the case, may obtain the services of additional or alternate expert witnesses and/or specialists by contracting for the needed services.

F. Holds a pretrial conference.

G. May continue action to effect settlement from date of assignment to case.

1. If, during the preparation of the case for trial, whether before or after filing, the trial attorney and the attorneys for the condemnee reach a basis for settlement which is greater than the reviewing appraiser’s Determination of Value, the trial attorney coordinates with the Chief Counsel, Transportation Division, and the DRES for the required approvals.

2. If the basis for settlement is reached during the trial of the case, the trial attorney may secure the necessary approval by telephone during a recess by obtaining the approval of the DRES or the Assistant DRES.

3. In either case (1 or 2 above) the trial attorney may obtain possession and use under appropriate circumstances. If possession and use by WSDOT is desired and can be had by offers of payment into court, the trial attorney must obtain the same approvals indicated in 1 and 2 above if the amount to be paid exceeds the Review Appraiser’s Determination of Value.

4. Having reached an approved basis of settlement in any case (1, 2, or 3 above) the trial attorney enters into an appropriate stipulation with opposing counsel for presentation to the court.

H. Depending upon the form of approved settlement, if any, that is secured pursuant to G above, takes action as follows:

1. Acquires the required interest by a Stipulated Judgment and Decree of Appropriation and complies with paragraph L below.

2. If the condemnee wishes to settle by deed rather than judgment, sends a memo to the appropriate Region RESM requesting the region conclude a settlement by deed and voucher. Such memo should include an explanation of the amount above the determination of value and who approved same.

3. Sends to the DRES conformed copies of the Stipulated Order of Immediate Possession and Use, copies of the Certificate of Immediate Possession in Condemnation (Trial Attorney’s Certificate) and the AG Memo: Transmittal — P&U and Request for Warrant. If the stipulated amount varies from the DV, submits a signed memo explaining the circumstances.

I. If no agreement can be reached, proceeds with trial of the case and acquires the required interest by either a court or jury Judgment and Decree of Appropriation (J&D).

J. If an adverse verdict is received, submits recommendations for appeal to the Chief Counsel, Transportation Division, then pursues the appeal, if so directed.

K. If WSDOT does not appeal, causes the J&D to be entered.
Acquisition

L. Sends to the DRES five conformed copies of the J&D, and two copies of the Trial Attorney's Certificate, the Trial Attorney's closing report, and the AG Memo: Transmittal — J&D and Request for Warrant. If the J&D was reached by stipulation pursuant to Paragraph H-1 above, the closing report includes a statement of the circumstances regarding the amount in excess of the Determination of Value and the fact of approval and by whom approved.

M. If in any of the cases stated above, attorney's fees are payable in addition to the settlement, the Attorney General will initiate a voucher and warrant request to cover same and forward the voucher, warrant request and any necessary affidavits to the Accounting Division.

N. Assures that pertinent data is concurrently input into computer.

6-10.3.4 Closing

A. The Title and Condemnation Program Manager:

1. Assures that:
   a. All interested parties have been named, appeared, and/or defaulted.
   b. The proper legal description was used.
   c. All necessary documents were received.
   d. All pertinent data is entered into computer.

2. Prepares and signs a Real Property Voucher made payable to the Clerk of the appropriate court in the amount of the Trial Attorney's Certificate.

3. Transmits the Real Property Voucher to the Olympia Service Center accounting office.

4. Distributes copies of the Stipulated P&U or the J&D, and the closing report as follows:
   a. Plans Engineer.
   b. Region RESM.
   c. Negotiation files.
   d. Right of Way parcel file (with two copies of the closing report).

5. Prepares and transmits the acquisition data package for normal Olympia Service Center processing (see Section 6-8) using the Negotiator's Report (WSDOT Form 262-080).

6-11 Condemnation, Federal

6-11.1 Rules

A. Condemnation proceedings in federal court system are used:

1. Only on interstate and defense access highway projects.

2. Only when the property owner has refused the state's request for immediate possession and use.
3. Only when the Attorney General, Transportation Division, advises the Region RESM that the superior court calendar for the appropriate county precludes acquisition of the required right of way in time to meet the construction ad date.

B. All of the rules and procedures of Sections 6-10.2 (except 6-10.2.4), 6-10.3.1, and 6-10.3.2 are followed.

6-11.2 Procedures
6-11.2.1 Region Procedures

The Region RESM:

A. Prepares a letter for the signature of the Region Administrator explaining the situation and requesting the Secretary of Transportation’s authorization to proceed to federal court.

B. Prepares and transmits the Negotiator’s Report according to the instructions thereon.

C. Coordinates with the U.S. Region Attorney on all matters concerning the proceeding.

6-11.2.2 Olympia Service Center Procedures

The Title and Condemnation Program Manager:

A. Coordinates with the Project Engineer to obtain accurate exhibit maps as required for the federal court. The federal court requirements include:

1. Color-coded Right of Way Plan sheet(s) for each parcel.
2. Legend on each sheet (as to meaning of symbols employed).
3. Parcel number within the right of way boundaries.
4. A known monument shown on each sheet.
5. Metes and bounds delineation of the part taken expressed completely on the face of the plan.
6. Vicinity map on each sheet showing entire ownership.
7. Distances expressed in hundredths of a foot (or meters if plan is metric).
8. Areas expressed in thousands of an acre (or hectares if plan is metric).
9. Deputy Secretary’s signature and seal.

B. Prepares a legal description of the acquisition that agrees with the delineation on the exhibit map.

C. Coordinates with the FHWA to obtain their preliminary approval of the state’s:

1. Exhibit maps.
2. Legal description.
3. Appraisals.
D. Submits legal description and orders federal form title insurance reports from the title insurance company — the amount of the insurance being the amount of the FHWA-approved preliminary appraisal.

E. Coordinates with Photogrammetry to obtain aerial photographs of the area involved as close to the date of the Declaration of Taking as the weather permits.

F. Coordinates with the U.S. Region Attorney as needed to obtain additional appraisals, plans etc. Assures compliance with the requirements of Section 1-22.

G. Prepares, coordinates and submits through channels a data package containing:

1. A letter to the U.S. Department of Transportation signed by the Secretary of Transportation including:
   a. The justification for the federal acquisition of the lands or interests in lands.
   b. The date FHWA authorized WSDOT to commence right of way acquisition, the date the project was advanced to Stage 2 program status, the date of the project agreement and a statement that the agreement contains the provisions required by Sections 108(a), 108(b), and 111 of Title 23, U.S.C.
   c. The necessity for acquisition of the particular lands under request.
   d. A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access.
   e. WSDOT's intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition.
   f. A statement on compliance with the provisions of 23 CFR Part 771 relating to environmental concerns.
   g. Adequate legal descriptions, plats, appraisals, and title data.
   h. An outline of the negotiations which have been conducted by the agency with landowners.
   i. An agreement that WSDOT will pay its pro rata share of costs.

2. A letter to the FHWA Division Engineer signed by the DRES transmitting the following:
   a. Transmittal letter to the Federal Director.
   b. Title page, for each blanket or single case.
   c. The following items for each parcel:
      (1) Negotiator's reports.
(2) Diary of Right of Way Activities.
(3) Exhibit maps (10 copies).
(4) Legal description (10 copies).
(5) Appraisal reports and DVs (five copies).
(6) Federal form title certificates (five copies).
(7) Schedule “A” showing:
   (a) Parcel number.
   (b) Owners.
   (c) Owner’s addresses.
   (d) Estimated just compensation.
   (e) Legal description.
(8) Scheduled ad date.
(9) Statement of the state’s inability to acquire in state court in time
    for contract advertising.
(10) Statement of access control.

Note: Extra copies of the data package are prepared in case of
eventual need.

H. Checks and accepts the deed(s) from the USA to the state. Each deed is
processed for posting and recordation as specified in Section 6-8.

6-12 Authorization of Acquisition

6-12.1 General

The following sections outline the requirements which must be met before
acquisition of real property required for transportation purposes can be
accomplished. The requirements listed are the end-products of many procedures
covered elsewhere in the manual and other departmental and federal publications
which can be assumed to have been properly accomplished in producing the
end-products (Ref: Chapter 1). Where special procedures are required because of
the nature of the acquisition, specific details that vary from the norm are set forth.

6-12.1.1 Rules

The following end-products are required before acquisition of real property needed
for transportation purposes is authorized:

A. Approved Right of Way Plan which may vary in name depending upon the
   scope of the authorized work.

B. Work Order Accounting Plan which states the scope of the authorized work,
   and provides information concerning funds with which to pay for the work.

Note: The type/name of right of way map referred to in Rule A and the scope
of work authorized by the Work Order Accounting Plan (Rule B) are generally
linked together as “phases” in accordance with Figure 6-12.1.1B.
<table>
<thead>
<tr>
<th>Phase #</th>
<th>Map Type/Name</th>
<th>Work Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Access Report Plan</td>
<td>Appraisal of total takes no acquisition.</td>
</tr>
<tr>
<td>2</td>
<td>Access Hearing Plan (w/o complete R/W info)</td>
<td>Appraisal of partial takes where necessary data is available to appraiser although not on plan. Acquisition of total takes no appraisals in controversial areas subject to change at hearing.*</td>
</tr>
<tr>
<td>2A</td>
<td>Access Hearing Plan (w/complete R/W info)</td>
<td>All appraisals.* All acquisitions.* No appraisals or acquisitions in controversial areas subject to change at hearing. No appraisal or acquisition of partial takes if federal design hearing requirements are incomplete.*</td>
</tr>
<tr>
<td>3</td>
<td>Findings and Order Plan (w/o complete R/W info)</td>
<td>Same as Phase 2.</td>
</tr>
<tr>
<td>4</td>
<td>Final Right of Way Play</td>
<td>All appraisals.* All acquisitions.*</td>
</tr>
</tbody>
</table>

*If appeal period not completed, delay action in areas of controversy and possible appeal.

Outline of Acquisition Phases
Figure 6-12.1.1B
6-12.1.2 Normal Acquisition Procedures

A. Having received the end-products referred to above, the Region RESM is authorized to proceed with the specified acquisitions (or appraisals) of the right of way in accordance with the provisions of this chapter and Chapter 4 using available staff.

B. No offer to acquire any parcel may be made until an approved Determination of Value (DV) or administrative offer is available to the Acquisition Agent.

6-12.2 Advance Acquisition With State Advance Acquisition Revolving Fund

A project may be acquired by these advance acquisition procedures when it is deemed beneficial to the state to do so (Ref: WSDOT Publication D 26-40 and Section 6-12.3 for “hardship” acquisition.)

6-12.2.1 Rules

1. An Advance Right of Way Acquisition Committee established to review, evaluate, and prioritize, properties recommended for acquisition through the state Advance Acquisition Revolving Fund shall consist of:
   a. Director, Real Estate Services (Chair)
   b. State Design Engineer
   c. Director of Program Management
   d. One Region Administrator chosen in the following manner:

   Any proposal submitted by a Region Administrator from an Eastern Washington region shall be reviewed by a Region Administrator selected on a rotating basis from a Western Washington region and vice versa.

2. The Region Administrators shall identify properties in their regions and submit them to be considered for advance acquisition. Any property or property rights to be purchased with the state fund must be designated highway transportation corridors and be for projects approved by the Transportation Commission as part of the state’s six-year plan (current published Highway and Marine Construction Program) or included in the state’s route development planning effort. The request documents shall include but shall not be limited to the current cost to acquire the property, future projected costs, what construction or other private improvement is currently being planned for the property, the estimated savings including relocation assistance and demolition costs, and the estimated time when the parcel will be incorporated into a project. Such state funded acquisitions shall generally not be more than ten years in advance of programmed construction.

3. The Committee will review the submittals and generally respond within five working days, provided that complete information is supplied.

4. A decision by the Committee may be appealed to the Assistant Secretary for Environmental and Engineering Services.

5. At the end of each biennium, the Director, Real Estate Services, shall prepare a report for the department to submit to the legislature and to the Office of Financial Management. The report shall describe:
a. Properties which were purchased with monies from the state Advance Acquisition Revolving Fund and why;

b. Expenditures for the acquired parcels; and

c. Estimated savings to the state.

6. Because of the limited amount of funding available, the state’s advance acquisition revolving fund will generally be used only on state funded projects.

7. The right of eminent domain will generally not be used for parcels purchased with revolving funds.

8. Properties considered for advance purchase include properties on which there is a known plan for major private development or a property offered for sale that is located within an area of rapid commercial, industrial, or residential development. Major development should include industrial or commercial construction, large apartment or condominium complexes, or a proposed subdivision of property.

9. There must be a high degree of certainty the property will be needed for a proposed highway project. The property should be needed in the majority of project construction options, including the preferred alternative if one has been identified.

10. Projected needs would normally require the use of a major portion, or all, of the property.

11. Efforts should be made to work with local agencies in controlling development or obtaining developer right of way donations where additional strips of property may be needed for future widening projects.

12. Acquisitions of total ownerships will not require mapping. Acquisitions of less than total ownerships will require a sufficient amount of design work and mapping to assure acquisition of appropriate right of way.

13. The Committee will evaluate, prioritize, and approve requests for use of the state revolving fund. For effective use of the revolving fund, properties must be evaluated for savings realized in the acquisition and for the speed with which the property will be incorporated into a funded project and the monies can be used for additional advance acquisitions. As a basis of comparison, with projects given more points having greater priority, the following point system may be used:

   The estimated future acquisition cost including the value of any proposed private construction (improvements) plus the estimated potential relocation costs shall be divided by the current value of the vacant parcel. The result shall be multiplied by 100 then adjusted downward 50 points per year for the third and all subsequent years between purchase and repayment to the revolving fund.
For example:

\[
\begin{align*}
FAC &= \text{Future acquisition costs} \\
PRC &= \text{Potential relocation costs} \\
CV &= \text{Current value} \\
YR &= \text{Count only the third and each subsequent year between purchase and repayment}
\end{align*}
\]

\[
\frac{FAC + PRC}{CV} \times 100 - 50 \text{ for each yr} = \text{rating}
\]

6-12.2.2 Advance Acquisition

**Region RES Manager Procedures**
1. Identifies properties that are potential candidates for advance acquisition.
2. Obtains supporting and appraisal data.
3. Submits completed request to DRES (see Appendix 3 for sample transmittal document).

**Committee Chair**
4. Designates a Region Administrator to serve with the three permanent Committee members.
5. Checks submittal for completeness, obtains additional information when needed.
6. Verifies that request meets criteria for state funded advance acquisition.
7. Establishes a point rating for the property under consideration.

**Committee**
8. Reviews balance of, and cash flow into, revolving fund. Reviews project schedules and schedule changes which will affect any properties purchased in advance.
9. Approves or rejects the request.

**Region RES Manager**
10. Concurs or appeals decision.

**Assistant Secretary for Environmental and Engineering**
11. If appeal is entered, hears and decides appeals.

**Region**
12. Initiates purchasing actions.
6-12.3 "Hardship" Acquisition and Protective Buying

A. A parcel may be acquired by "hardship" acquisition procedures if such purchase will alleviate a department created hardship situation for a property owner (see Chapter 1 and this chapter, Advanced Acquisition, Section 6-12).

B. "Hardship" acquisition envisions hardship occasioned or complicated by the impact of the potential transportation project. Such hardship is in contrast to others because of an inability to sell the property through normal market channels. "Others" (in the context just stated) are considered to be those not impacted by the project or those impacted by the project but not suffering particular hardship as a result of the impact.

C. Authorization of "hardship" acquisitions is premised on reasonable and supportable justification of the action. This type of acquisition is approved with discretion and only after the justification clearly demonstrates that the acquisition is necessary to alleviate particular hardship to a property owner.

D. Authorization of protective buying is appropriate when deemed to benefit the state.

6-12.3.1 Rules

A. "Hardship" acquisition and protective buying procedures may be exercised within the limits of the proposed transportation corridor and may be authorized following the corridor (i.e., location) public hearing.

B. "Hardship" acquisition procedures may be authorized on a parcel by parcel basis where it is shown that all of the following are applicable:

1. The owner's circumstances constitute an emergency substantially as described in one or more of the "Emergency Criteria" following.

2. The case qualifies as described in the list of "hardship" qualifications following.

3. The acquisition is necessary to alleviate the particular hardship to the property owner.

C. Protective buying procedures (6-12.3.3) may be authorized on a parcel by parcel basis where it is shown that either:

1. The acquisition is necessary to prevent imminent development and increased costs of the parcel which would tend to limit the choice of transportation alternatives.

2. The expense incurred by the state in the advance purchase of said property is justified by the projected savings. Reasonably anticipated revenue to the state from interim uses of the property may be considered in estimating net expenses of such acquisitions.

D. If the property lies within a project with known terminal limits but which has not been programmed, the region may submit the case documentation together with programming data (including estimate of the cost of the entire right of way project). The project may then be programmed as a Stage 1 or 2 right of way project, and funds set up only for the acquisitions requested.
6-12.3.1.1 *Emergency Criteria*

Emergency criteria exists when an owner:

A. Needs to move immediately because of a change in location of employment.

B. Is advised by a licensed physician to move from the area for reasons of health.

C. Has made a legal commitment (e.g., an earnest money agreement, etc.) to purchase alternate property. Please note that this action may jeopardize the owner’s eligibility for relocation assistance benefits (see Chapter 12) depending upon timing.

D. Has encountered legal or business circumstances requiring divestiture of title to the subject property.

E. Is required to make substantial capital improvements (e.g., new equipment for a factory) in order to continue use of the subject property, and these capital improvements would be financially unsound in view of the pending transportation project.

6-12.3.1.2 *Hardship Qualifications*

Hardship qualifications require that the case meets all of the following conditions:

A. The owner initiates the application for hardship acquisition.

B. The application is in writing and sets forth the exact circumstances creating the hardship.

C. The only appropriate action for the owner is the immediate sale of the subject property.

D. Because of the pending transportation project, the owner is unable to sell the subject property on the open market at its market value.

6-12.3.2 *Hardship Acquisition Procedures*

A. The Region Administrator determines the status of transportation project location activities potentially affecting the parcel and refers appropriate requests to the Region RESM.

B. The Region RESM:

1. Assures that information regarding right of way acquisition procedures and relocation assistance benefits and procedures is made available at public hearings as specified in Sections 6-2 and 12-2.

2. Determines that the ownership is within the limits of the proposed transportation corridor.

3. Sends a letter to the property owner acknowledging receipt of the application, and advising the owner of the approximate processing time.

4. Evaluates the application for hardship acquisition to assure that it meets the criteria specified above.
5. Prepares the following data package:
   a. A report covering a field investigation of the application.
      
      *Note:* This report either confirms or refutes the hardship alleged in the acquisition application letter; includes the Region RESM recommendations; documents necessary factors for full coverage of the three elements described above.
   b. The Relocation Assistance Program Plan (including tenants and owners).
   c. The Project Funding Estimate (see Chapter 4) for the parcel(s) prominently identified as “Hardship Acquisition” and showing: the name of the owner, the parcel number, the estimated cost of the parcel, a breakdown of the five right of way groups, a breakdown of urban and rural (if applicable), and the number of individuals, families, businesses, etc., displaced. If the parcel is concurrently affected by more than one project, the breakdown is allocated to each project.
   d. The title report for each hardship parcel.

C. Further processing and authorization is accomplished in compliance with Chapter 1.

D. Upon receipt of the Work Order Accounting Plan, the Region Administrator notifies the Region RESM to proceed with the hardship parcel acquisitions on an expedited basis.

E. Using the procedures of this chapter, the Region RESM expedites further region processing of the hardship parcels.

6-12.3.3 Protective Buying Procedures

With input from the Region Project Development Engineer, the Real Estate Services Manager will evaluate the potential benefits of purchasing property available on the open market to protect it from potential development for a future WSDOT project.

Provided funding is available, the Region RESM acquires the property using normal procedures.

6-12.4 (Reserved)

6-12.5 Functional Replacement of Publicly-Owned Real Property

6-12.5.1 General

A. Occasionally it is necessary to acquire publicly-owned, special use properties; e.g., a school, fire station, etc. Generally, just compensation for such special use properties cannot be found by use of the common market value approach. Instead, just compensation for such properties may be measured by the cost of replacing the property with one that is functionally equal to the acquired property. Hence, if a fire station is being acquired, the just compensation for the fire station may be the cost of sufficient land in an equally suitable location.
upon which to build a replacement plus the amount necessary to construct a new fire station thereon. Functional replacement is limited to replacement of acquired lands and facilities with functionally equivalent lands and facilities. To qualify for reimbursement from FHWA, if there are federal funds in the right of way acquisition, FHWA must approve.

B. Although the state of Washington has no specific case or statute law covering functional replacement, the principle of substitution and the provisions of RCW 47.12.040 and 47.12.150 are relied upon.

6-12.5.2 Rules

A. Cases that require functional replacement are identified as early as possible in the location and design stage so that they can be included in the environmental impact studies and addressed following plan development.

B. Functional replacement may be authorized under the following conditions:

1. The property to be functionally replaced is in public ownership (except that properties owned by railroads, utilities and the federal government are ineligible).

2. The functional replacement actually takes place, and the costs of replacement are actually incurred.

3. The replacement site and construction thereon are in compliance with existing codes, laws, and zoning regulations.

4. Functional replacement costs include:
   a. The actual cost of providing a replacement facility having the same functional capabilities; and
   b. Either of the following:
      (1) The appraised current market value of the land to be acquired for transportation purposes, where the owning agency has other lands on which to relocate the facilities; or
      (2) The reasonable cost of acquiring a functionally equivalent substitute site where lands in the same public ownership are not available or suitable.

5. Costs chargeable to increases in capacity and other betterments are not eligible, except:
   a. Those necessary to replace utility.
   b. Those required by existing codes, laws, and zoning regulations.
   c. Those related to reasonable prevailing standards for the type of facility being replaced.

6. If the appraised market value of the property to be acquired exceeds the cost of functional replacement, the market value may be paid.
C. To be eligible for functional replacement, publicly-owned real property actually must be in a specific use. For example: lands which are in actual use as a public park would be eligible; however, undeveloped lands which are being held for future park use normally would not be eligible.

D. Eligibility for functional replacement of a Volunteer Fire Department (VFD) is determined on a case by case basis. Authorization to permit functional replacement may be obtained if the state’s file clearly shows that:

1. The VFD’s facilities are devoted strictly to public use and are serving a public need which would otherwise have to be provided if the subject facility did not exist.

2. The VFD’s facilities are physically unique. Facilities do not qualify if they are of a type that is found in the normal market.

3. The VFD has clear title to the land and the facilities on the land.

   Note: The functional replacement concept may independently apply to owned improvements if they are on land that is not owned by the VFD. Title to land and/or facilities may be cleared by the VFD if it is desirable to qualify for functional replacement where all other conditions are met.

4. The VFD agrees to follow a nondiscriminatory policy consistent with Title VI of the Civil Rights Act of 1964 and 23USC 324 with regard to race, color, national origin, and sex, and to amend, revise, or modify any existing charter, bylaws, deed restrictions, etc. to that end.

6-12.5.3 Procedures

A. The Region RESM:

1. In the advance planning design or access and right of way phase, identifies real properties that are in public ownership and which may qualify for functional replacement.

2. Subject to appropriate authority from the Region Administrator, meets with officials of the owning agency to discuss the effects of the proposed acquisition and the potential for application of functional replacement procedures, and:

   a. Establishes a parcel file for the case by taking the actions specified in Section 6-2, and assures that file includes a Diary of Right of Way Activities — Acquisition and a Functional Replacement Checklist, Figure 6-12.5.3A2a.

   b. Offers to have property valuation made on both market value and functional replacement bases.

   c. Allows owning agency to select valuation method(s).

   Note: A market value appraisal and Determination of Value (DV) are made in every case except when the owning agency specifically waives its right to have its property appraised.
Functional Replacement of Publicly-Owned Real Property — Checklist

(Parcel and Project Identification)

I. Conceptual Approval

Yes No

___ ___ A. The property is in public ownership.

___ ___ B. There is a physical taking from the property.

___ ___ C. Adequate coverage has been given to functional replacement in the project planning documents such as those specified in D 33-30 (PP), Environmental Quality.

___ ___ D. WSDOT representatives have met with the owning agency and have discussed the effects of acquisition and potential application of functional replacement procedures.

Date

___ ___ E. Conceptual agreement obtained from the Assistant Secretary for Environmental and Engineering Services.

II. Formal Concurrency and Authorization to Proceed

Date

___ ___ A. WSDOT offers the market value to the owning agency, or the agency waives this right.

___ ___ B. The owning agency formally requests that WSDOT proceed with functional replacement.

___ ___ C. The Assistant Secretary for Environmental and Engineering Services formally agrees that functional replacement is necessary and is in the public interest.

___ ___ D. If applicable, WSDOT has prepared an acceptable environment impact statement and Relocation Plan pertaining to the replacement site.

___ ___ E. The region submitted to Olympia Service Center a formal request for concurrence, including:

1. Cost estimate data.

2. Tentative agreements reached between WSDOT and the owning agency.

3. A statement that the replacement property will be acquired in accordance with the provisions of all applicable state and federal regulations concerning acquisition and relocation assistance.

4. A machine copy of the Diary of Right of Way Activities — Acquisition showing all activity to date.

___ ___ F. Formal concurrence that functional replacement is in the public interest, and authorization for the region to proceed with PS&E for the replacement facility and the acquisition of the replacement site was received from the Assistant Secretary for Environmental and Engineering Services.

Note: The Director, Real Estate Services, takes action as appropriate to obtain FHWA approval or concurrence if participation of federal funds is desired in any part of the right of way costs of the project.
III. Review and Approval of PS&E

Yes No

___ ___ A. Submission provides for departmental inspection during construction of the replacement facility.

___ ___ B. There replacement site and construction are in compliance with all existing codes, laws, zoning regulations, etc., for the area in which the facility is located.

___ ___ C. Increases in capacity and other betterments not necessary to replace utility and unrelated to reasonable prevailing standards for the type of facility being replaced:

1. Have been identified.

2. Have not been included as eligible for federal funds.

___ ___ D. Provisions for advertising for bids and letting of construction contracts are acceptable to the Assistant Secretary for Environmental and Engineering Services.

Date

___ ___ E. The Assistant Secretary for Environmental and Engineering Services formally approves the PS&E.

IV. Concurrence to Award

Yes No

___ ___ A. A formal agreement has been entered into between the owning agency and WSDOT, setting forth the rights, obligations and duties of each party with regard to the facility being acquired, the acquisition of the replacement site, the conveyance of the lands required for highway purposes, and the construction of the replacement facility. The executed agreement sets forth how costs of the new facility are to be shared between the parties.

Date

___ ___ B. Formal concurrence in the award for actual construction is received from the Assistant Secretary for Environmental and Engineering Services.

V. Release From Further Responsibility

Yes No

___ ___ A. If substitute lands were acquired in the name of the state, conveyance of the substitute lands to the agency has been accepted. Date __________________.

___ ___ B. Conveyance to the state of the lands required for highway purposes has been accepted. Date __________________.

___ ___ C. A statement is placed in the parcel file, signed by an appropriate official of the owning agency and the department, certifying that the cost of the replacement facility has actually been insured in accordance with the provisions of the executed agreement, that a final inspection of the facility was made by the department and the owning agency, and that the department is released from any further responsibility.

Note: The Director, Real Estate Services, takes action as appropriate to obtain FHWA approval or concurrence if participation of federal funds is desired in any part of the right of way costs of the project.
3. Reports the results of discussions and decisions concerning functional replacement to the Region Administrator for inclusion in environmental impact statements, etc., if required on a project.

4. Assures that appropriate instructions are given to appraisers, specialists, and review appraisers (see Chapters 4 and 5).

   *Note:* Appraisal and DV on both the market value and the functional replacement premise may be required.

5. If the owning agency has indicated that it elects functional replacement, verifies that the owning agency has submitted a letter (addressed to the Region Administrator) formally requesting functional replacement, fully explaining why such replacement would be in the public interest, and, if it so elects, waiving its right to have its property appraised.

6. Submits to the DRES:
   a. Cost estimate data showing comparative costs. A suggested format is given in Figure 6-12.5.3A6a.
   b. A Memorandum covering:
      (1) Tentative agreements reached with the owning agency.
      (2) Justification for functional replacement.
      (3) Assurance that all replacement property will be acquired in compliance with all state and federal regulations concerning acquisition and relocation assistance.
   c. The owning agency’s letter requesting functional replacement.
   d. Any other pertinent data.

B. The DRES:

1. Reviews the submittal from the Region RESM.

2. If federal funds are to participate, prepares and transmits a letter (over the signature of the Assistant Secretary for Environmental and Engineering Services) to the FHWA, Division Administrator including:
   b. A request for FHWA authorization to proceed with the acquisition of a substitute site, the physical construction of minor site improvements, and the preparation of PS&E for major site improvements.
   c. Appropriate additional data received from region.

3. Upon verification from FHWA that functional replacement is in the best interest of the state, notifies the Region Administrator. Such verification stems from the approval of the Assistant Secretary for Environmental and Engineering Services when federal participation is not involved.

   *Note:* When required, PS&E for major site improvements are prepared by the owner of the improvements being replaced and submitted for FHWA review and approval. Costs of PS&E preparation are normally reimbursable under functional replacement.
Note: When required, PS&E for major site improvements are prepared by the owner of the improvements being replaced and submitted for FHWA review and approval. Costs of PS&E preparation are normally reimbursable under functional replacement.

C. The Region RESM:
1. Obtains execution by the appropriate officials of the owning agency of a formal agreement which sets forth:
   a. The rights, obligations and duties of each party with regard to the facility being acquired; the acquisition of the replacement site, specifying how the agencies name is to appear on acquisition.
   b. How the costs of the new facility are to be shared between the parties.
2. Proceeds with the acquisition of the substitute site, if appropriate, in the name of the party specified in the agreement (C.l. above).
3. Submits proposed PS&E for the functional replacement to the DRES, if required.
4. Submits the agreement to the DRES for execution.

D. The DRES:
1. Reviews the agreement and executes it for the state of Washington.
2. If federal funds are to participate, submits the executed agreement to the FHWA together with a letter requesting FHWA concurrence.
3. Notifies the Region RESM upon receipt of FHWA concurrence.

E. Upon completion of construction, the Region RESM:
1. Makes a joint final inspection of the replacement facility with the appropriate representatives of the owning agency.
2. Verifies that the conveyance from the agency to the state of the lands required for highway purposes has been accepted by the state.
3. If appropriate, submits voucher for any costs, e.g., relocation assistance, due to the agency pursuant to the agreement (C.l. above).
4. Obtains a statement from the appropriate officials of the owning agency that:
   a. The costs of the replacement facility have actually been incurred in accordance with the provisions of the executed agreement.
   b. A final inspection of the replacement facility has been made by both parties.
   c. The Department of Transportation is released from any further responsibilities.
(Project and Parcel Identification)

**Functional Replacement Costs Analysis**

<table>
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<td>Land</td>
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<tr>
<td>Buildings</td>
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Cost to Cure or Functionally Replace

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<td>Other Items</td>
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$_________________

Nonparticipating Items (Betterments)

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</tr>
<tr>
<td>Total</td>
<td>$_________________</td>
</tr>
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</table>

*Note: Exact breakdowns need not be given if property estimates are appropriate. Moving costs, replacement housing, and incidental expenses may be based on average or percentages similar to estimates.*

**Authorization of Acquisition**

*Figure 6-12.5.3A6a*
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# Chapter 7
## Title Information
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Chapter 7
Title Information

7-1 General

A. Evidence of the ownership of, or of an interest in the title to real property, is found in the records of the county in which the property is located. Public records affecting title are maintained by the county's assessor, auditor, clerk, registrar, and treasurer. Ownership records are also maintained by all title insurance company offices in each county.

B. Generally, the state requires fee simple title to lands acquired for right of way purposes. Grantor's retention of reversionary rights is not acceptable in most cases.

C. Although the "Contracts for Title Evidence" vary somewhat as to fees, delivery schedules, etc., each provides that the state receive Preliminary Commitments for Title Insurance (PC) and any necessary Supplemental (SPC) for its acquisition information needs, and a WLTA owner's Standard Form Policy of Title Insurance insuring the WSDOT's acquisition. For specific provisions, refer to the appropriate title contract.

D. Since it is less expensive to obtain insured titles from the local title industry than it is to use staff personnel to conduct title searches, the WSDOT uses the services of the title insurance companies almost exclusively. Only in an emergency situation are staff personnel used to conduct title searches. One provision of the contracts is that WSDOT may secure sundry title services such as copies of maps, copies of instruments, ownership information, etc., for a specified charge which, along with other charges, will be billed to WSDOT on a monthly basis. These charges are accumulated on a Sundry Title Services Log Sheet (WSDOT Form 262-008).

E. In headquarters, title work is performed under the supervision of the Title and Condemnation Program Manager. In the larger districts, title work is performed under the supervision of the District Real Estate Services Manager (District RESM); in the smaller districts, this work is accomplished by the District RESM assisted by the Title and Condemnation Program Manager (see Chapter 2).

7-2 Title Functions — District

7-2.1 General

The following sections describe title functions which are normally performed in the district. The District RESM is responsible for the performance of these title functions and may delegate these duties to members of his staff as appropriate. The District RESM coordinates with the Title and Condemnation Program Manager on any special problems.

7-2.2 Location

The District RESM:

A. Upon receipt of maps or property descriptions from the Plans Branch, places an order for title reports.

1. The order is placed with a title company insuring in the county in which the project is located.

2. Title orders are normally placed with the title company on a rotational basis; however, this is balanced against the company's ability to deliver to the department's time requirements and company's ability to deliver accurate work. At times of large orders (20 or more parcels), it may be necessary to balance the orders between several title companies.
3. Upon assurance that the title company is prepared to meet the project’s time schedule, places the order as provided in the contract.

B. Upon receipt of title reports, determines whether all properties within the limits of the proposed project have been covered.
   1. Contacts the title company to correct any duplications, omissions, or discrepancies.
   2. When the field survey (by the Plans Branch) does not agree with the descriptions on the title reports, coordinates with the project engineer and contacts the title company and/or the county or city engineer’s office to determine the legal status of the questioned property. Advises the Plans Branch on problems concerning the legal status of vacated streets or other questioned property.
   3. Acts as liaison between the Plans Branch and the title company.

C. Confirms that the title company’s bill is for the services provided, assures it meets contract requirements, and prepares Voucher Distribution (WSDOT Form 134-128).

D. Coordinates with the project manager on real estate matters bearing on interdisciplinary team activities, such as: ownership, contiguous properties, taxing districts, assessing districts, water rights, mineral rights, timber cruises, public recreation sites and access, etc.

E. Coordinates with the appropriate engineering personnel in the preparation and processing of applications for permits under the Shoreline Management Act.

7-2.3 Right of Way Plans — Special Distribution

The District RESM:

A. At the time negotiations are to begin, furnishes informational copies of approved Right of Way Plans to:
   1. Each title company doing business in that county.
   2. The county assessor.

B. Distributes any subsequent map revision resulting in a change to parcel definition as in A, above.

7-2.4 Acquisition

The District RESM:

A. Maintains and updates title reports. Each title report consists of a Preliminary Commitment for Title Insurance (PC) and all necessary Supplemental Reports (SPCs), all of which are prepared as specified in the contract.

B. Reviews the title reports with the Acquisition Agent as required, and advises the Acquisition Agent on techniques for clearing encumbrances.

C. Orders SPCs as needed.

D. Drafts complex legal descriptions and/or assists the Acquisition Agent in drafting them.

E. Coordinates with the Title and Condemnation Program Manager on Right of Way Manual interpretations as needed.

F. Reviews all acquisition or condemnation transmittals as described in Chapter 6.
G. Assures that the title company’s bills for supplemental, and full value title policies meet the requirements of the contract and prepares Voucher Distribution (WSDOT Form 134-128) for payment. As to those acquisitions which are to be closed in escrow, verifies that the correct escrow fee plus sales tax has been added to the acquisition voucher. When acquisitions are subject to usual or abnormal title risks, with the concurrence of the Title and Condemnation Program Manager, provide for the ordering of full value title insurance.

1. If the transaction is to be closed in escrow, calculate the appropriate title premium and add to the “principal” real property voucher.

2. If the transaction is not being closed in escrow, the title insurance company bills the district for the appropriate premium after closing as specified in Chapter 6. The bill is verified for correctness and paid as specified in Chapter 10.

7-2.5 Assistant Attorney General, Department of Transportation — Liaison

The District RESM:

A. Using the procedures specified in the appropriate contract, obtains title evidence for the use of the Assistant Attorney General, WSDOT, in inverse condemnation proceedings and on damage claims in accordance with Chapter 6.

B. When (on interstate projects only) condemnation proceedings are to be filed in the federal court; obtains federal form certificates as specified in the contracts.

C. Compiles data on legal descriptions and parties defendant as requested by the Assistant Attorney General, WSDOT.

D. Submits requests for any needed legal opinion to the Director, Real Estate Services (DRES) for coordination with the Assistant Attorney General, WSDOT, and other districts.

7-3 Title Functions — Headquarters

7-3.1 Acquisition Transmittal

The Title and Condemnation Program Manager:

A. P/pre-Audit:

1. Reviews voucher to assure completeness and accuracy of data and amounts.

2. Checks billing data to assure amounts are charged to the correct accounts and that nonparticipating payments are correctly shown.

3. Reviews file for compliance with negotiations, appraisal, property management, and relocation requirements. If problems are found, refer the file to the appropriate section for correction.

4. Inputs required data into REAMS.

B. Examination and Posting:

1. Examines complete file for compliance with state laws and WSDOT policies and procedures.

2. Examines legal descriptions for completeness, accuracy, and conformity with Right of Way Plan requirements.
3. Examines documents to assure that all interested parties have signed and that all encumbrances have been released or otherwise provided for.

4. When errors and/or omissions are found, returns file to district office with instructions for appropriate corrective actions.

5. Prepares closing order, escrow closing, and letter instructions for typing as appropriate.

6. Posts documents to plan sheets.

7. Forwards file to DRES for acceptance of documents and approval of voucher for payment.

8. Inputs required data into REAMS.

C. Closing:

1. Sends closing instructions and documents to title company and/or county auditor, as appropriate, for recording.

2. Upon receipt of recording data, transmits voucher and appropriate letters to accounting to have warrant drawn and mailed.

3. Upon receipt of title insurance policy and recorded documents, the file is closed to the real estate services records vault.

4. Inputs required data into REAMS.

7-3.2 Condemnation

A. State Condemnation:

The Title and Condemnation Program Manager:

1. Coordinates with the District RESM and the Assistant Attorney General, WSDOT, to determine the makeup of blanket condemnations.

2. Prepares and certifies exhibit maps to be used in the condemnation action.

3. Writes legal descriptions of property to be acquired in condemnation action.

4. Reviews diary, transmittal sheet, and all title evidence, and prepares a listing of interested parties to be named.

5. Transmits condemnation data package to the Assistant Attorney General’s Office.

6. Examines all Right of Way Plan revisions and SPCs to determine their effects, if any, on any pending condemnation case. As a result, supplies the Assistant Attorney General, WSDOT, with corrected descriptions, maps, lists of interested parties, etc.

7. Upon receipt of the Memo: Stop Condemnation Request (WSDOT Form 262-077) and upon confirming that an appropriate settlement has been obtained, sends a letter to the Assistant Attorney General, WSDOT, requesting that the parcel be deleted from the condemnation action.
B. Federal Condemnation:

The Title and Condemnation Program Manager:

1. Coordinates with the project engineer to obtain accurate exhibit maps as required for the federal court. The federal court requirements include:
   a. Color-coded Right of Way Plan Sheet(s) for each parcel.
   b. Legend on each sheet (as to meaning of symbols employed).
   c. Parcel number within the right of way boundaries.
   d. A known monument shown on each sheet.
   e. Metes and bounds delineation of the part taken expressed completely on the face of the plan.
   f. Vicinity map on each sheet showing entire ownership.
   g. Distances expressed in hundredths of a foot.
   h. Areas expressed in thousandths of an acre.
   i. Project Development Engineer’s signature and seal.

2. Prepares a legal description of the acquisition that agrees with the delineation on the exhibit map.

3. Coordinates with the FHWA to obtain their preliminary approval of the state’s:
   a. Exhibit maps.
   b. Legal description.
   c. Appraisals.

4. Submits legal description, and orders federal form title insurance reports from the title insurance company — the amount of the insurance being the amount of the FHWA-approved preliminary appraisal.

5. Coordinates with photogrammetry to obtain aerial photographs of the area involved as close to the date of the “Declaration of Taking” as the weather permits.

6. Coordinates with the U.S. District Attorney, as needed, to obtain additional appraisals, plans, etc. Assures compliance with the requirements of Section 1-22.

7. Prepares, coordinates, and submits through channels a data package containing:
   a. A letter to the U.S. Department of Transportation (signed by the Secretary of Transportation) including:
      (1) The justification for the federal acquisition of the lands or interests in lands;
      (2) The date FHWA authorized WSDOT to commence right of way acquisition, the date the project was advanced to Stage 2 program status, the date of the project agreement, and a
statement that the agreement contains the provisions required by Sections 108(a), 108(b), and 111 of Title 23, U.S.C.;

(3) The necessity for acquisition of the particular lands under request;

(4) A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access;

(5) WSDOT’s intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition;

(6) A statement of compliance with the provisions of Volume 7, Chapter 7, Section 2, of the Federal-Aid Highway Program Manual relating to environmental concerns;

(7) Adequate legal descriptions, plats, appraisals, and title data;

(8) An outline of the negotiations which have been conducted by WSDOT with landowners;

(9) An agreement that WSDOT will pay its pro rata share of costs;

10) A statement that assures compliance with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.).

b. A letter to the Division Engineer, FHWA (signed by the Director, Real Estate Services), transmitting the following:

(1) Transmittal letter to the Federal Director;

(2) Title page, for each blanket or single case;

(3) The following items for each parcel:

   (a) Condemnation Reports (WSDOT Form 262-080).

   (b) Diary of Right of Way Activities (WSDOT Form 260-001).

   (c) Exhibit maps (10 copies).

   (d) Legal description (10 copies).

   (e) Appraisal reports (5 copies).

   (f) Federal form title certificates (5 copies).

   (g) Schedule “A” showing:

      1) Parcel number.

      2) Owners.

      3) Owner’s address.

      4) Estimated just compensation.
5) Legal description.

(h) Scheduled ad date.

(i) Statement of the WSDOT's inability to acquire in State Court in time for contract advertising because of lack of jury term and trial setting.

(j) Statement of access control.

c. Checks and eventually accepts the deed(s) from the U.S.A. to the state. Each deed is processed for posting and recordation as specified in Chapter 6.

7-3.3 Conveyances of Excess and/or Surplus Property

The Title and Condemnation Program Manager:

A. Title Checks:

Performs a preliminary title check to determine what interest WSDOT holds in subject property and those exceptions and/or reservations which must be made in any proposed conveyance.

B. Descriptions:

Reviews descriptions submitted by property management or writes and reviews descriptions of property being conveyed.

C. Conveyance Documents:

Reviews documents of conveyance for completeness and accuracy prior to final execution.

D. Posting:

Posts completed conveyance to Right of Way Plans.

7-3.4 Records

The Title and Condemnation Program Manager:

A. Map Books:

Maintains map books including entry of new Right of Way Plans, entry and reposting of plan revisions.

B. Title Books:

Maintains files of title evidence by processing incoming reports and closing out reports on completed projects as part of completed project final review.

C. Sundry Site Records:

Maintains pit and stockpile record books and maps.

D. Advise Others:

Advises and assists others on matters involving right of way acquisitions and plans including, but not limited to, retrieval of data from archives and interpretation of evidence therefrom.
Tab
# Chapter 8

## Encumbrances

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Chapter 8
Encumbrances

8-1 General

This chapter is concerned with encumbrances and the procedures for clearing them. Techniques include: escrowing the transaction, withholding a performance bond, or clearing the encumbrance prior to transmitting the parcel to headquarters. The method used to clear each encumbrance is noted in the Encumbrance Report (Section 8-2.1.2C).

The Director of Real Estate Services (DRES) determines the acceptable title risk in each state acquisition. A title report, consisting of a "Preliminary Commitment for Title Insurance" (PC) plus any "Supplementals" (SPCs), is obtained for each parcel. The title report lists the known encumbrances affecting the title. In addition, the Acquisition Agent may discover other encumbrances (e.g., unrecorded easements).

The following sections discuss techniques for general clearance of encumbrances and procedures for clearance of individual encumbrances.

8-2 Clearance of Encumbrances

8-2.1 General Technique

8-2.1.1 Rules

A. The state clears each encumbrance affecting its acquisitions unless otherwise specified in this manual or unless otherwise authorized on an individual basis by special instructions from the District Real Estate Services Manager (RESM), approved by the Title and Condemnation Program Manager. Any such instructions and approvals are documented in the pertinent transaction.

B. Clearance of encumbrances is normally accomplished by the District Office in noncourt action acquisitions.

C. Under conditions specified in Section 8-2.2 et seq., the state may obtain clearance of encumbrances involving the payment of money through the escrow services of the title company issuing the PC on the respective parcel.

D. If any interest cannot be acquired by negotiations, the entire acquisition is achieved through eminent domain proceedings.

E. Each transaction package includes documentation on the clearance of all encumbrances against the property being acquired.

8-2.1.2 Procedures

A. The District RESM:

1. Investigates each encumbrance listed on the PC (and SPC, if applicable) and all other questions of title which appear during the acquisition process.

2. Resolves all title questions in accordance with Section 8-2.1.1 and 8-3 et seq., or obtains execution of an appropriate Escrow Agreement (DOT Form 262-099) in accordance with Section 8-2.2.
B. The Acquisition Agent:

1. Includes an *Encumbrance Report* in the appropriate location on the *Right of Way Acquisition Transmittal* (DOT Form 262-048), explaining the effect of each encumbrance on the state’s acquisition and the method employed to clear each encumbrance.

2. If unable to negotiate a settlement of any interest, reports the facts to the District RESM and makes the appropriate note in the *Diary of Right of Way Activities* (DOT Form 260-001) in accordance with Chapter 6.

8-2.2 Escrow Technique

8-2.2.1 Rules

A. Transactions are closed in escrow when:

1. The District RESM feels an escrow is required to protect the state’s or the property owners’ interests (e.g., the happening of a future event that does not require a judgment by the escrow agent as to its happening).

2. A multiplicity of signatures is required on a single warrant and contact between endorsers may be complicated (e.g., additional mailing of warrant necessary between endorsers).

3. Total acquisition involving out of area lenders.

4. The owners insist upon it.

B. Transactions are not normally closed in escrow when:

1. The amount necessary to clear an encumbrance is subject to negotiation.

2. A condition precedent to final closing involves the escrow agent in a determination of a performance other than the payment of money (e.g., removal of improvements).

C. Reasons for closing an acquisition in escrow are documented in the *Diary of Right of Way Activities* (DOT 260-001).

8-2.2.2 Procedures

When in compliance with Section 8-2.2.1 it is necessary to close a transaction in escrow, the Acquisition Agent:

A. Clears all encumbrances of nonmonetary nature (easements, etc.) and documents the clearance of these encumbrances on the *Encumbrance Report*.

B. Provides, for the benefit of the escrow agent, names, addresses, and telephone numbers of parties in interest, including institutions collecting contract or mortgage payments, judgment creditors, etc.

C. Completes all appropriate instruments involving conveyance to the state and obtains execution thereof.

D. Completes the *Escrow Agreement* (DOT Form 262-009) in accordance with Figure 8-2.2.2.

E. Uses an *Addendum to the Escrow Agreement* (see Figure 8-2.2.2) when there is need for more detailed instructions to the escrow agent than the space available in the standard *Escrow Agreement* (DOT Form 262-009) permits.
F. In situations that call for an Addendum to the Escrow Agreement, confers with the District RESM. The District RESM may request the assistance of the Title and Condemnation Program Manager.

G. Leaves the green copy of the completed Escrow Agreement with the grantors, retains the goldenrod copy for the district file, and transmits all other copies to headquarters with the Right of Way Acquisition Transmittal.

H. Prepares the Real Property Voucher (DOT Form 262-039) as specified in Chapter 10. The voucher is to be signed by the grantor’s (claimants) and is to direct that the warrant be made payable to the escrow agency.

8-3 Lien Encumbrances

8-3.1 Real Property Taxes

8-3.1.1 General

Real property taxes are payable on or after February 15th of each year. The entire year’s taxes become delinquent if the first half taxes are not paid on or before April 30th. The second half taxes become delinquent unless they are paid on or before October 31st.

8-3.1.2 Rules

A. Any real property tax lien (current year and prior years) is an encumbrance which is cleared on acquisitions of fee title and on most acquisitions of less than fee title (see Chapter 6).

B. The effect of the current year’s real property tax lien depends upon the date that the transaction is approved in headquarters. If the headquarters approval date is between:

1. January 1st through February 14th: The current year’s real property tax lien may be ignored.

2. February 1st through June 29th: At least the first half real property tax must be cleared.

3. After June 29th: The lien of the entire year’s tax must be cleared.

C. Persons who have paid the real property tax for the current year may be entitled to a tax refund. Such refund, if any, is based upon that portion of the taxes paid that relate to the property acquired by the state, but only on a pro rata basis for that portion of the year following the state’s acquisition. This is not an encumbrance and reimbursement is obtained directly from the County Treasurer.

8-3.1.3 Procedures

8-3.1.3.1 Payment of Current Year’s Tax

Note: Refer to Section 8-3.1.2B.

A. For either a total or a partial acquisition, the Acquisition Agent, or the owner’s election:

1. Allows the owner to pay the tax lien. The Acquisition Agent includes proof of the payment with the Right of Way Acquisition Transmittal.

2. Pays the tax lien by a separate Real Property Voucher (DOT Form 262-039) made payable to and signed by the appropriate County Treasurer. The amount of this voucher is shown as a deduction on the “principal” Real Property Voucher.
ESCROW AGREEMENT

TO:

Escrow Company
Correct Mailing Address

OUR REFERENCE: (SR/Title)

SR 90, Richards Road to Lake Sammamish
(Zilch) Parcel No. 8-01976
FA No. I-90-1(35)B
YOUR REFERENCE: Order #86754

DATE January 1, 1991

The Washington State Department of Transportation, and the undersigned, mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The undersigned grantees hereby authorize the issuance of a State warrant payable solely to the above named Escrow Agent, for our benefit.

2. Receive Warranty Deed handed herewith from me/us as grantees to the State of Washington as grantor, conveying (a portion of) the lands described in your referenced Preliminary Commitment.

3. Receive the sum of $__________ in form of State warrant, which you are instructed to distribute as follows:

   (a) Pay and eliminate of record all encumbrances on said premises shown in your Preliminary Commitment dated __________ and supplements dated __________, together with any other encumbrances appearing of record against said premises, on statement of holder or holder’s representative prior to closing, except those noted in paragraphs 1, 2, 3 (SPC) 2 & 3 (Those paragraphs not to be cleared by payment of

   (b) Pay the following charges: Escrow fee $__________ plus sales tax. Recording fees, if any, charged to grantor.

4. (Any specific instructions not included above or “See Addendum

   attached hereto for further instructions.”)

5. When ready to vest title in the State of Washington, record instrument shown in instruction 2 above (no recording fee or 1% excise tax is to be charged) and prepare CLOSING DETAIL STATEMENT as explained on the reverse hereof.

6. Remit the balance by your check to me/us at __________ (Grantor’s address or as instructed by Grantor) with your CLOSING DETAIL STATEMENT.

7. Issue standard form Owner’s policy of title insurance in the sum of $__________ insuring the STATE OF WASHINGTON as owner of the estate conveyed.

8. Upon closing, mail recorded instruments, title policy and copy of CLOSING DETAIL STATEMENT to WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, Highway Administrative Building, Olympia, Washington 98504, Attn.: Land Management Division, Administrative Services and Title Section Supervisor.

WASHINGTON STATE
Department of Transportation

By ____________________________
John Jones (signature)
Right of Way Agent

By ____________________________
Joe Zilch (signature)

Mary Zilch (signature)

DISTRIBUTION:

White - Escrow Agent
Green - Gannaway
Common - R/P Parcel File
Post - HQ Accounting
Goldendom - District File

DOT 0122 2-2-91
REVISED 11/87

Figure 8-2.2.2
Escrow Agreement (Example)
Page 1 of 2 Pages

Change 25
September 1991
8-4 Right of Way Manual
M 26-01
CLOSING DETAIL STATEMENT

As indicated on the Escrow Instructions, the Escrow Agent shall furnish, upon the completion of the closing of the escrow transaction, a CLOSING DETAIL STATEMENT which will show thereon:

(a) The date of receipt and total amount of escrowed funds.
(b) The fee for escrow services and a statement that the entire escrow fee has been paid solely by the State;
(c) The date on which the State’s grantor is notified that the Escrow Agent is ready to disburse funds to the State’s grantor;
(d) Date of closing of the escrow;
(e) Detail of a mortgage payoff which includes:
   Principal unpaid balance and date
   Accrued interest and dates for which interest is paid
   Prepayment penalty assessed, if any
   Offset of reserves held by mortgagee
   Net amount paid to mortgagee and date
(f) Sums, if any, withheld from distribution to State’s grantors at time of closing, and for what reason;

(g) Endorsements to the effect that:
   1. The statement has been read by the State’s grantor, is approved, and acknowledgment of receipt of the funds indicated as the net balance due from the Escrow Agent.
   2. The closing officer certifies that the statement is true and correct.

In case the Escrow Agent has withheld funds from distribution to the State’s grantors for any reason, the Escrow Agent shall furnish to the State copies of correspondence transmitting such withheld funds at the time of their final disposition.

Figure 8-2.2.2
Escrow Agreement (Example)
Page 2 of 2 Pages
3. If the mortgagee is holding reserves to pay the real property taxes, obtains a "Tax Payoff" letter from the mortgagee. The Acquisition Agent requests that this letter be prepared and signed by the appropriate official of the mortgage company guaranteeing payment of the real property taxes. He includes this letter in the data package transmitted with the Right of Way Acquisition Transmittal.

B. If the transaction is to be closed in escrow, includes instructions to pay the real property tax in the escrow agreement.

8-3.1.3.2 Payment of Delinquent Taxes
The Acquisition Agent clears the lien of delinquent taxes by using the procedures of Section 8-3.1.3.1. If a separate voucher is written for the pay Acquisition Agent has the County Treasurer compute the interest to be charged allowing sufficient lead time (approximately 60 days) to enable payment to be received by the County Treasurer. If desired, a statement may accompany the voucher.

8-3.1.3.3 Payment by Tax Segregation
On a partial acquisition, the Acquisition Agent or the owner may request that the County Assessor segregate both the assessed valuation and the real property taxes between the property acquired by the state and the remainder. Then the taxes are paid on at least the portion acquired by the state (RCW 84.60.070) using the procedures in Sections 8-3.1.3.2 and 8-3.1.3.3.

8-3.1.3.4 Clearance by Tax Set Over
On a partial acquisition, if the assessed valuation of the remainder exceeds the total amount of all current and delinquent taxes, the amount of the real property tax applicable to the state's acquisition may be "set over" to the remainder thus avoiding the necessity of making a tax payment prior to closing (refer to Section 1-3.2.2L). The Tax Set Over Letter (Figure 8-3.1.3.4) may be prepared by the Acquisition Agent, is signed by the owners and is approved by the County Assessor and the County Treasurer. The Acquisition Agent includes the Tax Set Over Letter in the data package transmitted with the Right of Way Acquisition Transmittal.

8-3.2 Assessments
8-3.2.1 General
A. An assessment is an amount levied against real property by an assessing district (e.g., Local Improvement district (LID)) to accomplish a public improvement (e.g., water, sewers, etc.). Most assessments are lump sum levies (which usually are payable over a number of years); however, when the operation is continuous (e.g., a drainage or diking district), an assessment may be levied annually and thereby become a recurring lien in the same sense as real estate taxes on private property. An assessment may be pending when the preliminary assessment roll is filed; however, the assessment becomes a lien only when the final assessment roll is turned over to the County or City Treasurer for collection.

B. Procedures covering payment of periodic assessments levied against state-owned properties are given in Chapter 11.

C. Procedures for determining that the state's firm offer accurately reflects the effect of an assessed public improvement are given in Chapter 6.

8-3.2.2 Rules
A. If the state's transaction is completed (i.e., approved by the Secretary of Transportation or his designee) before an assessment is collectable, the pending assessment is ignored.
Gentlemen:

You are hereby requested to transfer to the remainder of our property the lien of any unpaid taxes for the years ___________ assessed against the portion of our property required for right of way within the above referenced state highway project.

The lands owned under the above-referred tax account number have an area of ___________ and are described as follows:

The portion sold to the state of Washington has an area of ___________ and is described as follows:

Accepted and approved: [Signature] 19________

County Assessor

By: [Signature] Deputy County Assessor

County Treasurer

By: [Signature] Deputy County Treasurer

Cordially,

(Taxpayer)

Figure 8-3.1.3.4
Tax Set Over Letter (Sample)
B. The lien of current and delinquent assessment is cleared or adjusted:

1. On all acquisitions of fee title.
2. On those acquisitions of less than fee title for projects which would restrict the operation, maintenance, or other functional interest of the assessing district.

8-3.2.3 Procedures — Irrigation Districts

A. If the District Administrator determines the department-controlled lands or highways will remain in irrigable status, the annual assessments are handled by the Property Management Program Branch as specified in Chapter 11.

B. If the District Administrator determines that the department-controlled lands or highways should be removed from an irrigable status, the District RESM determines a lump sum payment for lands that are to be removed from irrigable status (see Figure 8-3.2.3B) in coordination with the irrigation district as follows:

1. A sum sufficient to pay the pro rata share of the irrigation district's bonded indebtedness; and
2. A sum sufficient to pay the deferred installments of any LID against such lands, if any; and
3. A sum sufficient, if invested at an annual rate of interest equivalent to that set forth in the current tables issued by the State Insurance Commissioner, to produce a sum of money equal to the annual increase in the operation and maintenance costs against the remaining lands in the irrigation district resulting from the severance from the irrigation district of the lands acquired by WSDOT.

C. The District RESM:

1. Prepares a resolution (see Figure 8-3.2.3C1) for action by the Board of Directors of the irrigation district.
2. Prepares a Real Property Voucher (DOT Form 262-0-39) as specified in Chapter 10.
3. Transmits the voucher and resolution through channels to the irrigation district for approval and execution.
4. Upon receipt of the executed resolution and voucher from the irrigation district:
   a. Inputs pertinent data into REAMS.
   b. Transmits the resolution and Real Property Voucher together with the determination of the sum due (see Figure 8-3.2.3B) to the DRES as a separate acquisition using the procedures set forth in Chapter 6 for approval.

8-3.2.4 Procedures — All Other Assessing Districts

A. The District RESM:

1. Identifies from the title reports, and any other appropriate source, all:
   a. Lump sum levies by special districts for capital improvements.
   b. Recurring assessment liens by junior assessing districts for performed services (e.g., fire patrol, diking).
Name
Irrigation District
Podunk, Washington
June 23, 1990

To: Department of Transportation
Attention: , Director of Real Estate Services

Olympia, Washington
For amounts due the Irrigation District under RCW 87.03.810 for irrigable
acreages taken for highway right of way as follows:
SD 0000 Right of Way 0000 SR 12
Sulphur Creek to Stover Road

Notes:

(1) Contract indebtedness to United States (Drainage Contract
No. 14-06-100-1474, dated May 15, 1958) 7 payments —
1991 to 1988 incl., at $0.16322 = $ 88.19
under ID's
W/U.S.A.

(3) Operation and Maintenance obligation:

Increased O&M costs to remainder
Average Annual
Year Acquired Acres Assessment
us average 1988 43.36 $267.86
assessment 1989 22.67 129.47
against 1990 11.16 48.27
lands to be leased 77.19 $445.60

Lump sum payment to earn $445.60 at 3.5 percent $12,731.43
Total due on 77.29 acres $12,819.62

Past due assessments — not paid on 77.19 acres after they were acquired by state:

1989 — 215.70
1990 — 434.17

Interest at 6 percent from due dates

to July 31, 1990 32.44

to clear past due assessments 682.31

Total $13,501.93

I do hereby certify that the district realized no savings in its operation and/or maintenance costs by the nonuse
of water by the 77.19 acres above referred to.

Secretary

Figure 8-3.2.3B
Determination of Lump Sum Payment for Irrigation District (Example)
Resolution

WHEREAS, Chapter 303, Laws of Washington of 1959 (RCW 87.03.810) sets out that whenever lands situated in an irrigation district are acquired by the Washington State Department of Transportation, and such lands, at the time of their acquisition, were irrigable and were being served or were capable of being served by facilities of the district to the same extent and in the same manner as lands of like character held under private ownership were served, the State Department of Transportation, as part of the cost and expense of the acquisition of right of way and with funds available for such acquisition, shall make a lump sum payment to the irrigation district in an amount:

(1) Sufficient to pay the pro-rata share of the district's contract indebtedness to the United States;

(2) Sufficient to produce, if invested at an annual rate of interest equivalent to that set forth in current tables issued by the State Insurance Commissioner, a sum of money equal to the annual increase in operation and maintenance costs against remaining lands in the district resulting from the severance from the district of the lands thus acquired by the Washington State Department of Transportation.

WHEREAS, the Washington State Department of Transportation has made a lump sum payment to the Irrigation District for lands within the highway project entitled SR 12, Sulphur Creek to Stover Road in the amount of $13,501.93 approved _________, and aggregating 77.19 acres, for reasons as set forth in RCW 87.03.810, and WHEREAS, RCW 87.03.810 sets forth that upon the making by the WSDOT the lump sum payment to the district, the district shall make and enter an order releasing such lands from further district assessments for the delivery of water to said lands,

NOW THEREFORE, IT IS BY THE BOARD OF DIRECTORS OF THE ____________________________ Irrigation District, RESOLVED AND ORDERED that the lands in the district acquired by the state of Washington through its Department of Transportation on the accompanying list marked Exhibit "A" which by reference is made a part of this Resolution, be relieved from further district assessments for the delivery of water, in accordance with the Laws of Washington RCW 87.03.810.

Board of Directors of
Irrigation District

Date:
(SEAL)
Attest:

Secretary

Figure 8-3.2.3C1
Irrigation District Resolution (Example)  
Page 1 of 2 Pages
Exhibit “A”

In the matter of SR 12, Sulphur Creek to Stover Road

Parcel 0-1800 (formerly Isaacs)

0.18 acres, as conveyed to the state of Washington by deed recorded under the Auditors
File No. ______ in Volume ________, page ________, records of ________ County,
Washington.

Parcel 0-1801 (formerly O’Rourke)

0.03 acres, as conveyed to the state of Washington by deed recorded under Auditor’s
File No. ______ in Volume ________, page ________, records of ________ County,
Washington.

(Continue with each acquisition to be related from the Irrigation District, the total of the individual acreages
equaling the acreage in the lump sum computation and the resolution.)

The lands embraced by this Exhibit A contain a total of 77.19 acres.

Figure 8-3.2.3C1
Irrigation District Resolution (Example)
Page 2 of 2 Pages
c. Assessing officials (or bodies) affected by the highway project.

2. Assures that the DV (DOT Form 261-023) reflects the market value, if any, added by the improvement for which the assessment was levied.

3. On acquisitions of less than fee title: coordinates with the Title and Condemnation Program Manager to determine the required actions.

4. Instructs the Acquisition Agent on the appropriate steps to be taken to clear, adjust or ignore assessments, and any amounts to be deducted from the "principal" Real Property Voucher (DOT Form 262-039) because of any separate clearance of assessment liens.

B. The Acquisition Agent:

1. Clears or adjusts assessment liens as instructed by the District RESM by adapting the procedures given in Section 8-3.13, except that:
   a. It is not possible to arrange payment of an assessment from the reserves held by the mortgagee.
   b. The request for an assessment segregation is directed to the proper assessing district officials. (Note: Set overs of assessments are not authorized by law but may be arranged at the discretion of the assessing district involved.)
   c. The amount of all assessments to be paid are shown as "Deductions" on the principal Real Property Voucher (DOT Form 262-039).

2. Shows the method for clearance, adjustment, or reason for ignoring the assessment on the Encumbrance Report.

8-3.3 Mortgages and Deeds of Trust

8-3.3.1 General

Mortgages and Deeds of Trust are discussed together. For the purpose of this section, both are encumbrances that are cleared by the payment of money in exchange for the proper document of release. In the following discussion, the language appropriate to a mortgage is shown first, with the language appropriate to a Deed of Trust shown in parentheses. The term "trustee" is appropriate only to Deed of Trust and is used only in that context.

8-3.3.2 Rules

A. A satisfaction of mortgage (reconveyance) is required to clear a mortgage (Deed of Trust) in the case of any total acquisition.

B. In the case of partial acquisitions, a partial release of mortgage (partial reconveyance) is required, except when the compensation does not exceed $3,000 or 5 percent of the before value (whichever is less) and there are no improvements in the take.

   Note: The 5 percent limitation assures that the state's acquisition will not be of such a magnitude that it will impair the mortgagee's (beneficiary's) security. The $3,000 limitation is intended to limit the size of the risk taken by the state on any one parcel.

C. In accordance with Chapter 6, certain "incidental expenses" incurred in transferring property to the state are payable by the department.
8-3.3.3 Procedures

The Acquisition Agent determines the identity of the “servicing agent” by asking the grantor where he makes the mortgage (Deed of Trust) payments. The servicing agent is the initial point of contact for dealing with the mortgagee (beneficiary). (See Figure 8-3.3.3 for illustrative diagram of the following.)

8-3.3.3.1 Total Acquisition

A. Instruments Obtained: If the mortgagee (beneficiary) is willing to deliver a satisfaction of mortgage (Reconveyance of Deed of Trust) without funds in hand, the Acquisition Agent:

1. Obtains the signatures of both the grantor (trustor) and the mortgagee (beneficiary) on the Real Property Voucher (DOT Form 262-039) using the mailing address of the mortgagee (beneficiary) as the address of the “claimant.”

Note: As an alternate the amount to be paid to the mortgagee (beneficiary) may be paid by a separate Real Property Voucher (DOT Form 262-039) made payable to the mortgagee (beneficiary) and deducted from the principal Real Property Voucher if both parties are agreeable to the amount.

2. On the strength of the state’s promise to pay the voucher, requests that the mortgagee (beneficiary) take all necessary steps to file a satisfaction of mortgage (reconveyance) with the County Auditor where the property is located.

3. Obtains the recording data and auditor’s file number of the satisfaction of mortgage (reconveyance) and recites same in his Encumbrance Report (in DOT Form 262-048, Right of Way Acquisition Transmittal) as reference for the clearance of the encumbrance.

B. Instruments Guaranteed: If the mortgagee is unwilling to deliver a satisfaction of mortgage without funds in hand (beneficiary cannot deliver a reconveyance), the Acquisition Agent:

1. If the mortgagee (beneficiary) is an established lending firm such as a bank, mortgage banker, or savings and loan, an “Instrument Guarantee” letter is requested in lieu of the satisfaction of mortgage (full reconveyance). This is a letter signed by an appropriate officer of the mortgagee (beneficiary) that says that they will satisfy their mortgage (arrange for full reconveyance of the property) upon receipt of the funds for same.

2. If the mortgagee (beneficiary) is an individual or organization not directly connected with real estate finance, and cannot be satisfied in accordance with Section 8-3.3.3.1A, the transaction is handled in escrow as described in Section 8-2.2.

8-3.3.3.2 Partial Acquisition

A. Instrument Not Required: Where, in accordance with Section 8-3.3.2B, a partial release of mortgage (partial reconveyance) is not required, the mortgage (Deed of Trust) may be ignored.

B. Instrument Required: Where a partial release of mortgage (partial reconveyance) is required in accordance with Section 8-3.3.2B, the Acquisition Agent determines, by coordinating with the mortgagee (beneficiary) and the grantor, any necessity to make payment of money to the mortgagee (beneficiary). This is decided by the parties and is normally based on the value of the remaining real property in relation to the balance owed on the mortgage (Deed of Trust).

1. Some payment of money to the mortgagee (beneficiary) required by the parties: There is a divergence of procedures between mortgages and Deeds of Trust in this instance; therefore, each is discussed separately.
Figure 8-3.3.3
Clearance of Mortgages and Deeds of Trust
a. Partial Release of Mortgage (PRM): Acquisition Agent obtains execution of a Real Property Voucher as in Section 8-3.3.3.1A and submits for mortgagee’s signature a Partial Release of Mortgage (DOT Form 262-019 or 262-020).

b. Partial Reconveyance: Acquisition Agent obtains execution of a Real Property Voucher as in Section 8-3.3.3.1A and prepares Request for Partial Reconveyance (DOT Form 262-022) and Partial Reconveyance (DOT Form 262-023). The Request for Partial Reconveyance is signed by the grantor (trustor) and beneficiary, requesting the trustee to execute the partial reconveyance. The Acquisition Agent, using the "Request" as his authority, obtains execution of the Partial Reconveyance from the trustee.

2. No payment of money to the mortgagee (beneficiary) required by the parties; the Acquisition Agent proceeds as in Section 8-3.3.3.1A except in this instance the grantor (trustor) is the payee and the mortgagee (beneficiary) does not join in execution of the Real Property Voucher.

The Acquisition Agent:

a. Includes in the PRM the appropriate clause (see Section 9-10.032) authorizing full payment to the grantor, or

b. Includes in the request for partial reconveyance the appropriate clause (see Chapter 9) authorizing full payment to the grantor.

8-3.4 Judgments

8-3.4.1 General

A. A money judgment is a lien on all the real and personal property of the debtor and is similar to the lien of a mortgage. If no action is taken to collect or to renew the lien of a judgment within ten years of the date of its entry, the judgment is outlawed. It is often advantageous to the grantor, if he is the judgment debtor and the time for levy by the creditor has almost expired, to ignore the judgment.

1. Judgments for child support extinguish ten years after the youngest child reaches the age of 18.

B. A judgment is an effective lien on the following:

1. All properties owned by the debtor in the county in which the judgment is entered at the time of entry of the judgment.

2. All properties to which the debtor acquires ownership or a contract interest during the life of the judgment.

3. All properties owned by the debtor in all other counties in Washington provided an Abstract of Judgment has been recorded in the county in question.

8-3.4.2 Rules

A. Judgments are cleared by payment, partial payment, and/or release of the property being acquired.

B. Without documentation to the contrary, it is assumed that the party named or cited in the title report is, in fact, the judgment debtor and that the judgment has been neither satisfied nor outlawed.
8-3.4.3 Procedures

A. Identity of Debtor:

The Acquisition Agent determines whether the judgment debtor and the state's grantor are the same person.

B. Verification of status of judgment against state's grantor:

1. Outlawed: If the Title Report and/or the Acquisition Agent's investigation indicate that no action has been taken to collect or renew the lien within the past 10 years, the Acquisition Agent requests that the District RESM obtain a SPC showing that the judgment is eliminated.

2. Paid: If such judgment has been paid, the Acquisition Agent requests the creditor's attorney to satisfy the judgment of record.

3. Assigned: If the judgment creditor has assigned his interest in the judgment and the Acquisition Agent is uncertain of the validity of the assignment, the assignor and the assignee are requested to join in execution of a satisfaction of judgment or partial release of judgment (see Section 8-3.4.3.C2a).

Note: An Assignment of Judgment must include an acknowledged execution by the judgment creditor.

C. Clearance:

1. If the conditions stated in Section 8-3.43B1 appear to pertain, but a new SPC does not show that the judgment is outlawed, the Acquisition Agent submits a complete explanation of the evidence to the District RESM requesting that specific guidance be obtained from the Title and Condemnation Program Manager.

2. If the judgment remains of record against the state's grantor and is to be cleared, the Acquisition Agent:

   a. Contacts the judgment creditor's attorney or assignee (if any) and obtains a written statement of the amount necessary to obtain a satisfaction or a partial release of the judgment.

   b. Arranges with the debtor and his attorney to pay the required amount, usually by a separate Real Property Voucher (DOT Form 262-039).

   c. Arranges with the creditor and/or his attorney to have a Satisfaction of Judgment or a Partial Release of Judgment properly entered in court.

   d. If the judgment was filed in a county other than the one in which the subject property is located, has the satisfaction or partial release recorded in the appropriate county.

3. If nearly ten years have passed since the entry of the judgment, the Acquisition Agent proceeds as described in Section 8-3.4.3D2.

D. Escrow:

Judgments are cleared in escrow when either:

1. The amount needed to obtain a release (or partial release) is known (see Section 8-3.4.3C2) and other details of the transaction call for it to be closed in escrow in accordance with Section 8-2.2.

2. It is nearly ten years since entry of the judgment and no action has been taken by the creditor. In this case, the escrow instruction tells the escrow agent to withhold sufficient funds to pay the judgment until such time as the judgment is outlawed.
8-3.5 Other Monetary Liens

8-3.5.1 General

Any monetary debt may be reduced to judgment (see Section 8-3.4) and become a lien against real estate. Monetary indebtedness (although not reduced to judgment) may become a lien capable of being specifically reported in a title report when the creditor or his attorney files the appropriate papers with the County Clerk or records the papers with the County Auditor. The condition of a grantor's title may also be questionable due to other types of monetary debts.

A. The following become a lien against real estate upon recording with the County Auditor in the county where the lands lie and are reported accordingly as an encumbrance on the title report:

1. Labor, Mechanics, and Materialman's Liens: May be foreclosed by court action or, subject to further specific conditions (per RCW 60.04.100), may become outlawed after eight (8) months.

2. Federal Tax Lien: Delinquent federal taxes are a lien when properly filed with the pertinent County Auditor. The Federal Internal Revenue Service office closest to the property handles matters related thereto. May be considered outlawed after 10 years from date of filing.

B. At time of death, debts of the decedent become a lien against his estate without necessity for filing or recording and are generally only questioned in the PC. Such debts may include:


2. Funeral expenses.

3. Bills and expenses of final illness.

C. There are additional types of indebtedness which may require clearance (e.g., Tax Warrants, Financing Statements, etc.).

8-3.5.2 Procedures

A. Labor, Mechanics, and Materialman's Liens:

1. Verification of Status of Lien: If eight (8) months have lapsed since the date of filing of the lien, the Acquisition Agent obtains an SPC (by request through the District RESM). If the SPC advises that the lien may be disregarded, the Acquisition Agent cites the SPC in his Encumbrance Report (see Right of Way Acquisition Transmittal, DOT Form 262-048).

2. Clearance: Procedures outlined for clearing of "Judgments" (see Section 8-3.4) are adjusted and adapted for clearing of labor, mechanics, and materialman's liens with the following exceptions:

a. The attachment period is eight (8) months instead of six (6) years.

b. The lien is released by the creditor instead of his attorney.

c. The documents of release are "Release of Lien" and "Partial Release of Lien."

d. The documents of release are drafted for each specific case under the supervision of the District RESM in coordination with the Title and Condemnation Program Manager.

e. The documents of release are recorded with the County Auditor instead of filing with the County Clerk.
B. Federal Tax Lien: The Acquisition Agent clears the Federal Tax Lien by adapting the procedures for clearing of “Judgments” in Section 8-3.4 under the following conditions:

1. Deals with the Internal Revenue Service (IRS) office closest to the property.
2. Requests that the IRS file a release where the debtor indicates the debt has been paid.
3. Includes a copy of the debtor’s receipt identifying his payment of the debt or a copy of the release with the Right of Way Acquisition Transmittal.

C. Lien on Estate of Deceased: Refer to Section 8-5.5.

D. Miscellaneous Monetary Encumbrances: When the Title Report or any information obtained by the Acquisition Agent discloses or raises questions concerning possible existence of other types of indebtedness on the part of the state’s grantor, the Acquisition Agent refers the information to the District RESM and requests specific guidance.

8-4 Property Rights Encumbrances

8-4.1 Real Estate Contracts

8-4.1.1 General

A. A real estate contract is similar to an installment plan transaction between vendor (seller) and vendee (purchaser) and establishes rights and duties between the two parties. Either party may sell or assign his respective interest in the contract. The contract seller’s interest is transferred by either a Warranty Deed, a Quit Claim Deed, or by a Seller’s Assignment of Contract and Deed. The purchaser’s interest may be transferred by either a Quit Claim Deed, or a Purchaser’s Assignment of Contract and Deed.

B. An assignment of interest by a contract seller or a contract purchaser may be given as an actual (absolute) conveyance or may be given merely as a security document for a loan or for the performance of some act. A security document might, on its face, appear to be an absolute conveyance and be reported as such in the Title Report. The facts and relationships expressed by the assignor and assignee determine the intent of the parties.

C. Subject to the terms and conditions of the respective contracts, the most recent contract purchaser generally has the right to receive a deed upon fulfillment of the contract and, in the meantime, has the right of full use, control and enjoyment of the property. Any contract seller has the right to receive the contract payments, the duty to deliver a deed upon fulfillment of the contract, and forfeiture rights to the contract if the purchaser does not fulfill his contractual obligations.

8-4.1.2 Rules

A. The most recent contract purchaser who is in physical possession and/or control of the real property is the “equitable owner” and is the principal party with whom the state deals.

B. Recorded and unrecorded contracts and assignments are cleared as to the property being acquired.

8-4.1.3 Procedures

The following procedures are used to clear the encumbrance of real estate contracts and assignments in either total or partial acquisitions.
8-4.1.3.1 Parties

A. The Acquisition Agent determines the correct names and mailing addresses of contract sellers, purchasers, and assignees; and, where appropriate, verifies the intent of the respective parties as to absolute conveyance or security document (see Section 8-4.1.1B).

B. The District RESM determines the identity of all necessary parties in interest and the "equitable owner." In complex cases, he coordinates with the Title and Condemnation Program Manager.

8-4.1.3.2 Unrecorded Real Estate Contracts and Assignments

The Acquisition Agent:

A. Requests any party in interest holding an unrecorded real estate contract or assignment to record the particular instrument with the appropriate County Auditor. Obtains the auditor's file number and date of any such recording.

B. If the party refuses to record the instrument, obtains a copy of such instrument.

C. If the party refuses to record the instrument and also refuses to make a copy available: obtains the date of the instrument, the exact names of the parties as shown thereon, and the real estate excise sales tax receipt number.

D. Submits all data on unrecorded instruments to the District RESM and requests that an SPC be obtained. The SPC names the parties in interest and reveals the existence of any encumbrances against each such party.

8-4.1.3.3 Distribution of Funds

After obtaining agreement of the "equitable owner" to the state's offer to purchase, the Acquisition Agent contacts all necessary parties in interest to establish a mutually-agreeable disbursement of funds. If the parties cannot agree on the distribution, the Acquisition Agent turns the parcel for possible condemnation.

8-4.1.3.4 Conveyancing

A. Joint Conveyance — Two alternatives are available:

1. Joint Conveyance, Single Voucher, Single Payee: If there is no distribution of funds required, or if the parties wish to arrange their own private distribution of funds, the Acquisition Agent has the contract purchaser and the contract seller join on an appropriate instrument. This instrument includes the appropriate clause authorizing payment by the state to only one of the parties. The Real Property Voucher is then executed and made payable to the party designated on the instrument of conveyance.

2. Joint Conveyance, Separate Vouchers: If there is to be a distribution of funds, the Acquisition Agent has the contract purchaser (owner) and the contract seller join on an appropriate instrument. The "principal" Real Property Voucher is executed by and made payable to the contract purchaser and indicates (1) the full amount of the state's transaction, and (2) a deduction of the amount to be paid separately to the contract seller. A second Real Property Voucher is executed by and made payable to the contract seller for the amount deducted from the "principal" voucher.

B. Separate Conveyances: The Acquisition Agent has the contract purchaser execute an appropriate instrument and also has the contract seller execute a deed to the state. Vouchering may be accomplished by any methods described in A, above.
C. Security Assignees: The Acquisition Agent clears the interest (as to the state’s acquisition) of any security document assignee following the procedures for clearing of a mortgage as described in Section 8-3.3.3.1 or 8-3.3.3.2B, except that a Quit Claim Deed is used instead of a Satisfaction of Mortgage or a Partial Release of Mortgage.

D. Escrow: If the transaction meets the requirements for closing in escrow (see Section 8-2.2), the Acquisition Agent:

1. Has the contract purchaser execute an appropriate instrument and a Real Property Voucher which is made payable to the escrow agent.

2. Drafts an appropriate Escrow Agreement (DOT Form 262-009), and has both contract purchaser and seller execute same if a partial acquisition is involved. If a total acquisition is involved, the contract seller’s signature is not required.

8-4.2 Leases

8-4.2.1 General

A. Lease Rights: A lease is a conveyance of possessory rights in realty for a specified period of time, the consideration for which is termed “rent.” To be fully binding, a lease must be in writing, just as any other conveyance involving real estate. The person conveying the possessory right is the lessor and the person to whom conveyed is termed the lessee.

Any portion of the bundle of rights that make up full ownership may be the subject of a lease, e.g., lease of the surface of the land only, lease of the improvements (or a portion thereof) only, some combination of land and improvements, lease of airspace over the property, or lease of subsurface rights such as oil or minerals.

A sublease is a lease between the original lessee and a third party (sublessee) in which sublease the original lessee becomes the (sub)lessor and may convey rights up to the limits of those which he himself holds.

A lease may contain an option to renew, which, if exercised, would extend the term of the lease.

B. Self-terminating Leases: A self-terminating lease contains a clause which automatically terminates the agreement upon the happening of a certain event, such as, Eminent Domain acquisition of all or a portion of the premises. The parties in interest (and not the condemnor) decide whether their agreement is terminated by an Eminent Domain acquisition.

8-4.2.2 Rules

A. A leasehold interest is recognized by the state when it is evidenced by either:

1. A written (recorded or unrecorded) document.

2. An existing use and possession of the property in exchange for a consideration (rent), but only if accompanied by evidence of the duration of the contracted period of time.

B. Nonself-terminating lease and sublease interest in effect on the date of delivery of the initial Firm Offer Letter are cleared or adjusted by the state when they conflict with acquisitions of fee title, easements, or permits.

1. A Partial Release of Lease (DOT Form 262-024) is obtained in partial acquisitions and acquisitions of easements and permits where the rights of the lessee (in the remainder) are not being obviated by the state’s partial acquisition.
2. A Release of Lease (modeled from DOT Form 262-024) is obtained in all total acquisitions, and in those partial acquisitions and acquisitions of easements or permits where the rights of the lessee are being obviated by the state's take.

C. Any effect on a lease due to an acquisition by the state of access rights only is a matter of adjustment between the lessor and lessee. Such leases are cleared when the loss of access would eliminate the effectiveness of the lease.

D. The state normally does not acquire property subject to an outstanding lease, i.e., assuming the position of the lessor, but may do so subject to the specific approval of the DRES when:

1. The leasehold lies entirely within the take from a single ownership.
2. The lease expires (including any renewal option) before the time the leased rights would conflict with the state’s project schedule.
3. Any improvements within the leasehold are owned by the property owner (lessor).
4. The owner (lessee) is furnishing no services to the lessee.
5. The owner has agreed to the state’s offer for the acquisition, but the lessee refuses to execute a Release of Lease.
6. The lease can be managed by the state.
7. Such action would not increase the cost of the state’s project.

8-4.2.3 Procedures

8-4.2.3.1 Identification of Lease Interests

A. The Acquisition Agent:

1. Investigates each lease interest currently in force, verifying between the parties any necessary clarifications of specific lease conditions, rights and responsibilities of the respective parties.

2. Prepares a “Lease Memo” to the District RESM; Subject: “(Project Title, Parcel Number), Currently Effective Leases” in which he reports the following information prior to any involvement by the state:

   a. Exact names of lessor and lessee.
   b. Current rental terminology and payments.
   c. Termination of lease information:
      1. Termination date, if specified, or duration of lease.
      2. Renewal option rights.
      3. Any self-terminating language or conditions of the lease.
   d. Real property rights leased, (e.g., total property use, specific partial use, land use only, specific type of use, lessee’s right to erect structures, etc.).
e. Exact names of vendor and vendee and conditions of ownership under any conditional sale contract or chattel mortgage covering fixtures or trade fixtures attached to the real property, if not covered by the Title Report.

f. Lessee’s rights to retain and/or ownership of tangible improvements and/or fixtures.

g. Lessor’s and lessee’s respective lease responsibilities concerning services such as heating, maintenance, water, electrical, etc.

3. Obtains a copy of each available unrecorded lease identified in Section 8-4.2.3.1A1 and attaches same to the Lease Memo or makes notation on the Lease Memo as to reasons for its nonavailability.

B. By making suitable margin notations on the Lease Memo, the District RESM, in accordance with Section 8-4.2.2, identifies:

1. Any leasehold interest which is to be cleared by Release of Lease or Partial Release of Lease.

2. Any leasehold interest which meets all of the conditions of Section 8-4.2.2D (less item 5) for possible assumption by the state as lessor (i.e., acquisition subject to the lease).

8-4.2.3.2 Clearance of Lease Interests

A. Release: The Acquisition Agent:

1. Obtains the signature of the lessee on a Partial Release of Lease (DOT Form 262-024) or Release of Lease (modeled on DOT Form 262-024) as indicated on the Lease Memo (see Section 8-4.2.3.1B1).

2. If the lessee has or claims a leasehold value, advises the owner (lessor) and obtains the signature of the lessee on the principal Real Property Voucher along with the signature of the owner (lessor) without breaking down the amount payable to each.

Note: The approved compensation includes the value of all interests.

B. Lessee’s Property: If the lessee owns improvements or is purchasing trade fixtures (under recorded or unrecorded conditional sales contract or chattel mortgage) and which fixtures are attached to the real property that is affected by the state’s acquisition (as covered by Section 8-4.2.3.1A2e and f), the Acquisition Agent, (in addition to the procedures in Section 8-4.2.3.1A):

1. If not covered by the Reviewing Appraiser’s DV, requests that the District RESM provide a listing of all such lessee-owned property and its value as included in the approved compensation.

2. Advises the owner (lessor), deducts the value of said lessee’s property from the principal Real Property Voucher, and obtains the lessee’s signature on a second voucher covering only the property of the lessee being purchased by the state.

3. Obtains the lessee’s signature on a Fixtures and Improvements Agreement (DOT Form 263-005) covering only the lessee’s property.

4. If the lessee is purchasing his property under a conditional sale contract or a chattel mortgage:

a. Obtains the signature of the seller or mortgagee on the “secondary” Real Property Voucher (see Section 8-4.2.3.2B2) without breaking down the amount payable to each signatory.
b. Obtains the signature of the seller or mortgagee on the *Fixtures and Improvements Agreement* (DOT Form 263-005).

5. If the fixtures are being purchased by the lessee on a conditional sale contract where the fixtures vendor retains title until the contract is paid in full, requests that the fixtures vendor execute, for the lessee, his standard satisfaction of the conditional sale contract and obtains a copy of same to be included in the transaction package.

6. If the fixtures are being purchased by the lessee subject to a chattel mortgage, requests that the mortgagee execute, for the lessee, his standard satisfaction of the chattel mortgage.

   a. If the chattel mortgage is not recorded, the acquisition agent obtains a copy of such satisfaction for inclusion in the transaction package.

   b. If the chattel mortgage was recorded, the acquisition agent requests that the satisfaction be appropriately recorded, obtains the recording date and auditor's file number of the satisfaction and recites same in his *Encumbrance Report* (see Section 8-2.1.2C).

7. If access rights are acquired in the instrument from the owner, they must also be acquired in the Release from the lessee.

8-4.2.3.3 Acquisition Subject to Lease

A. When the Acquisition Agent has reached agreement with the owner of land to be acquired, but finds that it is subject to a lease which the lessee refuses to release, and all the conditions of Section 8-4.2.2D are present (see also Section 8-4.2.3.1B2), he requests the District RESM to obtain the approval of the DRES for acquisition subject to the lease.

B. The District RESM, by *Intra-Departmental Communication* (IDC) setting forth all the facts called for by Section 8-4.2.2D, requests approval of the DRES for acquisition subject to the lease. If such approval is obtained, directs the Acquisition Agent to acquire subject to the lease; if approval is not forthcoming, directs the Acquisition Agent to turn the parcel in for condemnation.

C. If the Acquisition Agent is directed to acquire subject to the lease, he obtains execution of the appropriate instrument from the owner (lesser), including therein the following clause:

Note: “Also the grantors herein release and assign unto the state of Washington all of said grantor's rights and responsibilities as lessor in and to that certain lease by and between the grantor (as lessor) and (name of lessee) (as lessee) dated ________ and recorded ________.”

8-4.3 Utilities

8-4.3.1 General

Public and private utility companies may hold easements and/or fee interests in nonoperating properties and in operating properties (rights of way) for construction and operation of their services. Utilities may be underground, at grade, above grade or combinations thereof. The state is obligated to make reasonable accommodation of utilities, avoiding disruption of operating systems in the public interest.

8-4.3.2 Rules

The relocation and reestablishment of public services furnished by railroad and other utility companies to accommodate the state’s highway project are the responsibility of the District Utility Engineer and the Headquarters Bridge Engineer (as to railroads) or the Project Development Engineer (as to other utilities). Since such relocations
and/or reestablishments often involve clearance and/or readjustments of real property interests close liaison with the Acquisition Program Manager (or his designee) is required.

8-4.3.2.2 Real Property Interests

A. Responsibilities:

1. Railroad Properties: Any interest in real property (operating or nonoperating) held by a railroad company is cleared or adjusted by the Acquisition Program Manager as specified in Chapter 6.

2. Other Utility Properties: Any interest in real property (operating or nonoperating) held by a nonrailroad utility company (except those held by the Bonneville Power Administration) is cleared or adjusted by the District RESM as specified in Chapter 6. Those held by the Bonneville Power Administration are cleared or adjusted by the Acquisition Program Manager as specified in Chapter 6.

B. Instruments:

1. A Quit Claim Deed is used if there is no actual utility system currently in place on the real property encumbered or owned by the utility.

2. A Subordination Agreement (see Figure 8-4.3.2.2B2) is used if the utility system is to be reestablished, remaining within its existing right of way, crossing or encroaching on the state’s acquisition. (Note: A Subordination Agreement is intended for use only when a utility company cannot convey its rights to the state due to restrictions on conveying operating properties during periods of indebtedness.)

3. A Quit Claim Deed containing the elements in Figure 8-4.3.2.2B2 is used if the utility system is to be relocated or otherwise removed from its existing right of way. Caution is used to assure that appropriate conveyance language is used in lieu of subordination language.

8-4.3.3 Procedures

8-4.3.3.1 Identification of Interests

The District RESM:

A. At the “Location Stage” of plan development, determines the location of all utility interests which need to be cleared. Determination is made by:

1. Examination of all title reports.

2. Coordination with the District Utility Engineer on any necessary project inspections on the ground.

B. Makes a memorandum report to the District Utility Engineer (copy to the DRES) listing each location on a project encumbered by a utility interest. The following information is given in each instance:

1. The parcel number affected if assigned.

2. The owner of the utility interest and type of utility service.
Subordination Agreement

FA No. __________

In the Matter of (Insert Project Title)

This Agreement is made and entered into by and between the state of Washington, hereinafter referred to as the "state" and the undersigned, hereinafter referred to as the "Utility":

WITNESSETH

WHEREAS, the Utility is the owner and holder of certain rights in and to the hereinafter described lands under the certain __________, dated __________, and recorded on __________ in Volume __________ of ________, Page(s) __________ under Auditor’s File No. __________;

AND WHEREAS, the state is to construct, operate, maintain and repair a highway and/or a facility related to highway purposes over, across and upon the hereinafter described lands;

AND WHEREAS, state and federal laws governing highway facilities, and/or facilities related to highway purposes, require that the state shall acquire all rights, title and interests essential to the construction, operation, maintenance and repair of the said facilities, including the control of access thereto;

NOW THEREFORE, it is hereby understood and agreed that the Utility, for and in consideration of __________, hereby subordinates and grants to the state all of its rights in and to the following described real estate situated in __________ County, state of Washington:

All that portion of the following described Parcel “A” lying . . . (see “Description” in Chapter 9).

Parcel “A”: (Legal description from title report.)

The lands being subordinated herein contain an area . . . (see “Specific Details Clause” in Chapter 9).

The Utility hereby releases and relinquishes to the state all rights of ingress and egress . . . (see “Limited Access” and related clauses in Chapter 9).

The Utility shall have and retain forever the right and privilege to construct, operate, renew, replace, and maintain a crossing the said highway right of way at or near Highway Engineer’s Station __________, provided that the following minimum standards are maintained:

(Insert the standards)

Such rights to be exercised in conformity with the terms and conditions set forth in a Permit to be issued by the Secretary of Transportation in accordance with established policies of the Washington State Transportation Commission. (Note: If there is a separate Utility Agreement, this paragraph may be replaced with a reference to that agreement. Include the Utility Agreement number.)

Figure 8-4.3.2.2B2
Subordination Agreement (Sample)
Page 1 of 2 Pages
Should the state abandon the lands and rights herein subordinated for use by the public, the rights herein subordinated and granted shall revert to and vest in the Utility.

It is understood and agreed that the delivery of this Subordination Agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the state of Washington unless and until accepted and approved hereon in writing for the state of Washington, Department of Transportation, by its Secretary or his duly authorized representative.

Accepted and Approved __________________________  Dated this _______ day of __________________

Date ________________________________________ (Utility name)

State of Washington
Department of Transportation

By: _______________________________ (Show title of appropriate corporate officers)

Title: _______________________________

Dated this _______ day of __________________

Corporate Acknowledgment (see Section 9-15.3).

(Note: The Subordination Agreement is prepared on 8½” x 14” paper.)

Parcel No(s)._______

Figure 8-4.3.2.2B2
Subordination Agreement (Sample)
Page 2 of 2 Pages
3. The location, bracketed by the pertinent Highway Engineer’s Stations delineating a crossing, encroaching or floating interest.

4. The type of property interest held, e.g., easement.

5. Whether the property is classified as “operating” or “nonoperating” (see Chapter 3).

6. The action required to clear the encumbrance, e.g., (a) Right of Way Instrument and Utility Agreement; (b) Right of Way Instrument only.

C. Coordinates with the Utility Engineer on any necessary relocation plan for each affected facility.

D. Submits a suitable set of plans to the DRES with utility company real property interests identified thereon.

Should it be necessary in the future to alter, relocate, or remove any of the facilities owned by the Utility from within the highway right of way by order of the state, all costs for such alteration, relocation or removal including the cost of any additional lands needed in connection therewith, shall be borne by the state.

8-4.3.3.2 Clearance

The Acquisition Agent:

A. Coordinates with the Utility Engineer as necessary on presenting their respective matters to the representatives of the affected utility.

B. Prepares the appropriate instruments (see Section 8-4.3.2.2B) and obtains execution.

8-4-4 Private Easements

8-4-4.1 General

A private easement is a property right which enables one party to use property owned by another party. To be fully binding, an easement must be in writing just as any other conveyance in real estate. The benefited parcel is the dominant tenement and the encumbered parcel is the servient tenement. An appurtenant easement right will travel with the conveyance of the benefited parcel, even if not mentioned in the conveyance.

8-4-4.2 Rules

A. The state recognizes a private easement when it is evidenced by either:

1. An existing enjoyment of a property right by one party over a property owned by another party.

2. A written (recorded or unrecorded) document.

B. An easement right affected by the state’s acquisition is cleared or adjusted as to the encumbered parcel by acquisition of such easement rights as are appropriate from the benefited parcel.

C. When the state acquires all of both the dominant and the servient tenements, or all of the dominant tenement and so much of the servient tenement as contains the easement, the interests merge and the easement may be ignored. (See Section 8-4.4.3C below.)
8-4.4.3 Procedures

A. The District RESM:

1. Determines the location of all private easements affected by a highway as a part of the Project Inspection (see Chapter 6).

2. Identifies any easement which obviously has no bearing on the property as it currently exists (e.g., 1880 irrigation easement encumbering land presently developed to commercial use) and:
   a. Requests that the Title and Condemnation Program Manager ignore such easement.
   b. Makes a full explanation in the Encumbrance Report (see Section 8-2.1.2C.)

3. Identifies the ownership(s) benefited by the easement.

4. a. On nonlimited access projects, identifies situations wherein ownerships (from which there is to be no acquisition) are benefited by an easement across a servient parcel from which there is to be an acquisition and a functional replacement of the service provided by the easement. Coordinates with the Title and Condemnation Program Manager on the procedure for clearing the easement encumbering the servient parcel by appropriate instruments from the owners of all the benefited ownerships.
   b. On limited access projects, directs the clearance of the easement with respect to all benefited parcels from which access rights must be acquired pursuant to Chapter 6.

B. The Acquisition Agent assigned to the encumbered parcel:

1. Coordinates with the District RESM on cases relating to Section 8-4.4.3A.

2. Identifies the location of the easement in relation to the property being acquired (see Section 8-4.4.3A1).

3. Acquires the property and/or property rights called for by the state’s project plans.
   a. If a special procedure is prescribed pursuant to Section 8-4.4.3A4, follows pertinent instructions.
   b. If no special procedure is prescribed (Section 8-4.4.3A4), obtains the instrument normal to the acquisition called for by the project plans. No special instrument or instrument clause is required.

4. Makes appropriate notation in his Encumbrance Report (see Section 8-2.1.2C) to cross-reference the transaction to the benefited ownership(s) or parcel(s).

5. If the benefited ownership is not a parcel, clears the encumbrance as indicated in C1, below.

C. The Acquisition Agent assigned to the benefited parcel(s) obtains (an) instrument(s) in accordance with the following:

1. Benefited parcel is outside the state’s acquisition:
   a. If special procedures are prescribed pursuant to Section 8-4.4.3A4, follows pertinent instructions.
   b. If no special procedures are prescribed (Section 8-4.4.3A4), obtains a Quit Claim Deed (modeled on DOT Form 262-016 et seq.) from the parties in interest in the benefited parcel, conveying to the state of Washington “ . . . all rights in and to that certain easement as in Auditor’s File No. ________ that lies within the following described real estate situated in _________ County . . .”
The Quit Claim Deed is completed to include the standard highway project heading, legal description (of the encumbered parcel) etc., in accordance with Section 9-3 et seq.

2. **Total Acquisition of Benefited Parcel**: Obtains the normal instrument (see Chapter 6) appropriate to the total acquisition as called for by the project plans. No special instrument or instrument clause is required.

3. **Partial Acquisition of Benefited Parcel**: Obtains the normal instrument (see Chapter 6) appropriate to the partial acquisition as called for by the project plans in which instrument he also includes the language "... together with easement as in Auditor’s File No. ________.”

4. Makes appropriate notation in his Encumbrance Report (see Section 8-2.1.2C) to cross-reference the transaction to the encumbered parcel(s).

**8-4.5 Mineral Rights**

**8-4.5.1 General**

A mineral right or reservation is generally a right of exploration and/or franchise to the subsurface as compared to mining claims or oil and gas leases. A mining claim is a form of surface ownership and is discussed in Chapter 6. An oil or gas lease is handled in the same manner as any other type of lease as discussed in Section 8-4.2.

The rights of ownership held by the fee holder include subsurface mineral rights unless such subsurface rights have previously been conveyed or otherwise reserved (severed) from the fee ownership. The state’s power of eminent domain is capable of stopping any exercise of subsurface rights potentially detrimental to the state’s project.

**8-4.5.2 Rules**

A. Mineral rights which have not been previously reserved (severed) from the fee are automatically acquired with the fee conveyance to the state, unless the owner insists on retaining them by the reservation clause in Section 9-10.1.1.

B. Mineral rights which have been reserved (severed) from the fee are:

1. Ignored if the property is in an area in which subsurface exploration or interest is not apparent.

2. Cleared or adjusted in the state’s acquisition:
   a. If the property is in a known or suspected mineral rich area.
   b. If there are observed mining operations in the area.

3. Included for acquisition in any formal condemnation action or if the holder of such right is also the holder of a fee interest to be acquired within the project.

**8-4.5.3 Procedures**

A. The District RES:EM:

1. Determines if mineral rights interests and/or explorations are apparent as a part of the project inspection (see Chapter 6).

2. Reviews the appraisal report(s) and/or the applicable Determinations of Value (DOT Form 261-023) and assures inclusion of any actual value of mineral rights in the approved compensation.

3. If there is any question of mineral rights activity, submits the problem to the Title and Condemnation Program Manager for a project-wide determination of necessity for clearance or adjustment.
4. Assigns acquisition in accordance with the determinations made pursuant to sections 8-4.5.2 and 8-4.5.3A3, recognizing that one encumbrance may affect several parcels.

B. The Acquisition Agent:

1. Determines the present ownership of the outstanding (severed) mineral rights which are assigned to be cleared or adjusted.

2. If the appraisal data and reports conclude that there is no value attributable to mineral rights, determines if the rights can be readily acquired or adjusted either by donation or for a nominal consideration (up to $50).
   a. If severed mineral rights can be readily acquired, obtains a Quit Claim Deed from the holder of such rights using the same description used to purchase the required right of way, and if applicable, a *Real Property Voucher* in accordance with Chapter 10.
   b. If such rights can be adjusted (if the holder insists on reserving mineral rights), obtains a Quit Claim Deed using the same description used to purchase the required right of way, reserving to the holder the subsurface rights by special instrument clause in accordance with Chapter 9, and if applicable, a *Real Property Voucher* in accordance with Chapter 10.

3. If the appraisal reports conclude that there is value attributable to mineral rights, may either:
   a. Join the holder of such rights with the fee holder on the normal instrument and *Real Property Voucher*.
   b. Handle in accordance with Section 8-4.5.3B2.

4. If mineral rights cannot be acquired, reports the facts to the District RESM in the *Diary of Right of Way Activities* (DOT Form 260-001), and, as advised by the District RESM may either:
   a. Turn the transaction over to the District RESM for administrative handling in accordance with Chapter 6, or
   b. Complete a condemnation report in accordance with Chapter 6, as appropriate.

### 8-4.6 Water Rights

#### 8-4.6.1 General

The right of any person to private use of the water resources within the state is controlled by state law. While specifically providing for the preservation of water rights existing at the time of the adoption of the state law (RCW 90.03), such law sets out that all waters within the state belong to the public and any right thereo, or to the use thereof, shall be acquired for a beneficial use and only in the manner provided by law. Even though the state law provides for certain differences between rights in “surface waters” as opposed to “ground waters,” there is no basic difference requiring separate procedures in acquisitions for highway projects.

*Note: Riparian/littoral rights are not included in the subject addressed here (see Section 8-4.1).*

#### 8-4.6.2 Rules

A. The state recognizes water rights evidenced by either:

1. An existing beneficial use of water resources by way of private diversion.
2. A “Water Right Claim” filed with the Department of Ecology or one of its predecessors.

3. A “Permit” issued by the Department of Ecology or one of its predecessors.

B. A water right is an encumbrance if the state’s acquisition leaves a remaining property that is physically or functionally severed from an existing water right of measurable value to such remaining property.

8-4.6.3 Procedures

8-4.6.3.1 Identification of Rights Affected

A. The District RESM:

1. Determines if a water right exists on each affected parcel, pursuant to information received through any appropriate combination of the following:
   a. Title reports.
   b. Field observations including but not limited to those made by the District Location Engineer, and the Project Inspection (see Chapter 6).
   c. Appraisal reports.
   d. Discussions with the parties in interest.

2. Determines if the water right is endangered or severed by virtue of the highway project.

3. Investigates all feasible methods for future water service including, but not limited to, the following:
   a. Reconnection to the self-same source by passing through or preserving same within the state’s project.
   b. Connection with a suitable existing alternate source such as a neighbor or community system.
   c. Replacement and connection with a new source by entering into an agreement with the parties at interest.
   d. Leaving the present system alone.

4. Determines suitable action for future water service which may include, but is not limited to:
   a. A construction item for reconnection or new connection (see Chapter 6).
   b. A Well Agreement (DOT Form 262-025) for replacement.
   c. Acquiring the affected rights which may include acquiring a remainder or paying damages.
   d. Ignoring rights not expected to be affected.

5. Submits to the DRES, a written request for a test and report on each existing endangered domestic source as to capacity and potability, identifying each case by project title, parcel number, name of owner, address of property, type of existing source (e.g., private well, community well, etc.) and location of the respective sources.
B. The DRES forwards each request to the appropriate District Office of the Department of Ecology, requesting that each reply be directed to the pertinent District RESM.

C. The District RESM coordinates with appropriate district personnel and obtains approval by the District Administrator on any necessary Construction Memos (see Chapter 6).

8-4.6.3.2 Clearance

The Acquisition Agent:

A. Includes language appropriate to the settlement in the deed and Real Property Voucher.

B. If the settlement is by construction item, includes the approved “Memo: Construction Item” (see Chapter 6) in his construction package.

C. If the settlement is by Well Agreement:

1. Advises the parties at interest that it is the state's intent to compensate on the basis of a replacement, not a betterment, unless betterment is incidental to fulfillment of the state's obligation.

2. Obtains execution of a Well Agreement by the parties at interest.

3. Prepares and submits the complete transaction package including the original Department of Ecology water report (see Section 8-4.6.3.1B). Retains a machine copy of the Diary of Right of Way Activities (DOT Form 260-001).

4. Upon completion and testing of the new system by the owner and/or his agents, obtains the following from the owner:

   a. An itemized account of the charges in accordance with the specifications in the Well Agreement.

   b. Execution of a Real Property Voucher in accordance with Section 10-3, covering the costs chargeable to the state in compliance with the specifications of the Well Agreement.

   c. Execution of a Release of Damages (DOT Form 262-027) as specified in the Well Agreement.

   d. A statement by the installer of the pump which specifies the actual capacity of the re-established water system.

5. Prepares and submits a supplemental transaction package containing the items specified in Section 8-4.6.3.2C4, using Right of Way Acquisition Transmittal, and including therewith the completed, signed and dated machine copy of the Diary of Right of Way Activities.

8-4.7 Reservations, Restrictions, and Defects

8-4.7.1 General

Deed restrictions, deed reservations, plat restrictions, and defects in prior conveyances are generally reported as encumbrances in the title report. Some of these restrictions or reservations may be of the same nature and effect as easements, mineral reservations, or other rights subtracting from fee simple title. A defect in a prior conveyance may involve a reversionary right, a will restriction against sale to outside parties, or other unusual circumstances. Most restrictions on the use of property as contained in a plat or in a deed are surpassed by the state's higher right of Eminent Domain.
8-4.7.2 Rules

A. Reservations, restrictions, and title defects are individually analyzed as to any encumbering effect on the state’s acquisition.

B. Encumbrances are cleared or adjusted in accordance with suitable procedures.

8-4.7.3 Procedures

A. The District RESM:
   1. Analyzes reservations, restrictions, and defects and identifies those which affect the state’s acquisition.
   2. If the encumbrance has the same effect as another property-rights type encumbrance covered in Section 8-4, handles such encumbrance in accordance with the section governing that type of encumbrance.
   3. If the encumbrance does not have the same effect as any other property-rights type encumbrance covered in Section 8-4, coordinates with the Title and Condemnation Program Manager on handling appropriate to the individual case.
   4. If the reservation, restriction or defect does not affect the state’s acquisition, instructs the Acquisition Agent to ignore the reported encumbrance.

B. The Acquisition Agent:
   1. Handles encumbrances in accordance with instructions by the District RESM as in A, above.
   2. Makes appropriate explanations in his Encumbrance Report (see Section 8-2.1.2C).

8-4.8 Vacated Streets and Roads

8-4.8.1 General

A. Streets and roads are vacated by either city or county ordinance. Such vacations will be noted in the PC.

B. If applicable, the Nonuser Statute (RCW 36.87.090) may be used as the basis to vacate a platted street.

Note: The state of Washington has no statutory authority to vacate any road, street, or highway. The Nonuser Statute is permissive only and action thereunder must be taken by the city, county, or courts to perfect title.

8-4.8.2 Rules

A. A recorded claim of title to a vacated street will appear in the PC, and is cleared by the Acquisition Agent in the course of the negotiations with the abutting owner (i.e., the property owner to whose lands the vacated street or road “attaches by operation of law”).

B. A nonrecorded claim of title to a vacated street or road must usually be perfected by a court decree.

C. The Nonuser Statute permits the vacation of a street or road under the following circumstances:
   1. If the street is dedicated by a plat:
      a. The plat must have been recorded prior to March 12, 1904.
b. Th plat must have been outside the corporate limits of a city or town at the time of platting and for five years thereafter.

c. The streets dedicated on the plat must have remained unopened for a five-year period prior to March 12, 1909.

2. If the street or road is not dedicated by a plat:

a. The street or road must have remained unopened for public use for a period of five years after the order is made or authority granted for opening it.

b. The lands must have not been conveyed to the state, or to any county, city or town for highways, streets, roads, alleys, or other public places.

8-4.8.3 Procedures

A. The Acquisition Agent:

1. If the PC indicates that a vacated street (or portion thereof) is attached to the parcel by operation of law, includes any required portion of the vacated street in the description of the acquisition from the property owner (see Section 9-9.4).

2. If the property owner has an unrecorded claim to an unopened street or road, obtains information on the owner’s claim and refers the matter to the District RESM for further action.

B. The District RESM:

1. Coordinates with the Title and Condemnation Program Manager to determine the appropriate course of action (e.g., condemnation, allow the claim, and obtain a new appraisal).

2. Instructs the Acquisition Agent as to required procedures.

8-4.9 Prescriptive Streets and Roads

8-4.9.1 General

The legislature frequently adds a county road to the state highway system. When the entire right of way of the county road has been acquired by recorded deeds, waivers, or condemnation actions, the width of the right of way is known. However, many county roads have been acquired by prescription (i.e., without a formal conveyance to the county), and the widths of these roads must be determined when they become a part of the state highway system.

The principle which governs the width of a prescriptive road is set out in the Matter of the Extension of West Marginal Way (109 Wn 116). In this case, the city of Seattle sought to widen the existing West Marginal Way (a former county road). The city took the position that the prescriptive right of way was 60 feet wide because that was the width set out in the petition and the County Commissioners’ order which established the road. Sixty feet was also the maximum width permissible for county roads under the statute during the prescriptive period. The abutting property owners argued that the city could only claim title to the actual width of the travelled way (approximately 10 to 15 feet). The State Supreme Court upheld the city’s position and stated that: "The county actually laid out and surveyed a road 60 feet in width. We think, under the authorities cited, and the facts, which are not disputed, that the county acquired by prescriptive right the whole of the 60-foot road, notwithstanding the fact that but a portion thereof was actually used."
8-4.9.2 Rules

A. When a county road becomes a part of the state highway system, the District RESM ascertains the width of the right of way so acquired.

B. In the absence of any acquisition instruments, the county road is prescriptive, and its width is determined by the statute applicable at the time the road was created:

1. Territorial law: Section 7, Act of January 11, 1859: “County roads shall be 60 feet in width unless the county commissioners shall, upon prayer of the petitioners for same, determine a less number of feet in point of width.”

2. Legislature of 1881, Section 3119, page 578: Continued Territorial law.

3. Laws of 1890, Chapter 19, Section 1: Provided that county roads should be not less than 30 nor more than 60 feet in width.

4. Laws of 1925, Ex. Sess., Chapter 173, Section 3: Provided that county roads should be not less than 30 nor more than 120 feet in width.

5. RCW 36.68.010: county road rights of way designated as being 60 feet in extremities and 30 feet on each side of the centerline of the road, unless the commissioners elect a different width.

C. The period of uninterrupted public use required to establish a road as a public highway is seven years if the county is performing maintenance on the right of way (RCW 36.75.070), and is ten years if there is no county maintenance (RCW 36.75.080).

8-4.9.3 Procedures

A. When a county road becomes a part of the state highway system, the District RESM:

1. If the road was previously on the state highway system, sends an Intra-Departmental Communication (DOT Form 700-008) to the Title and Condemnation Program Manager requesting information on the status of the road.

2. If the road was not previously on the state highway system, or if the Title and Condemnation Program Manager so requests, ascertains the width of the right of way by:

   a. Searching for deeds, waivers, condemnation actions, or other acquisition instruments.

   b. Searching the county commissioners' records to determine whether the road was established by petitions and county commissioners' orders. If so, determines that the width was within the limits of the applicable statute, and that the proper period of public use exists (see Section 8-4.9.2).

B. The Title and Condemnation Program Manager submits to the District RESM a status report on the road upon request (see Section 8-4.9.3A1).

8-4.10 Riparian/Littoral Rights

A. The rights of a riparian/littoral owner (see Chapter 3) may be so effected by the state’s proposed acquisition as to require clearance thereof as an encumbrance on the state’s acquisition. Such rights will seldom be set up in the Title Report, but should be the subject of concern by the Acquisition Agent whenever the property or property rights to be acquired include the bed or banks of a stream, river, lake, or ocean.
B. Most adverse effects of the state’s acquisition will occur downstream from such acquisition (e.g., change in water flow, change in channel causing bank cutting, etc.), but some may occur upstream (e.g., back-up flooding).

C. The nature of “riparian/littoral rights” are so complex and an adverse effect on them occurs so seldom (when not part of the plan) that the Acquisition Agent should in all cases consult with the District RESM and/or the Title and Condemnation Program Manager if any question should arise in his mind on this subject. He should also enter into such consultations if the Title Report should raise such a question.

D. Clearance is obtained, usually by Quit Claim Deed (of riparian/littoral rights appurtenant to the effected property), in accordance with instructions received from the District RESM or the Title and Condemnation Program Manager.

E. Compensation for loss of effected riparian/littoral rights is determined through the appraisal process.

8-5 Personal Rights Encumbrances

8-5.1 Life Estate

8-5.1.1 General

A title report may disclose the existence of a life estate either by virtue of the vesting, or by a paragraph within the body of the report. A life estate is a possessory right in real property held for the life of the holder. The parties in interest are the holder of the life estate (holder) and the holder of the remainder (remainderman), or if there are no remaindermen named, then upon termination of the life estate, the possessory right returns to the grantor and is referred to as a reversion.

Although a life estate may have value, such value is but a part of the total value of the fee ownership. The division of the value of the fee ownership to determine the value of the life estate is a matter of negotiation between the holder and the remainderman.

8-5.1.2 Rule

The state recognizes all parties in interest.

8-5.1.3 Procedures

The Acquisition Agent:

A. Investigates to determine which party (holder or remainderman) is in possession.

1. If holder is in possession, determines address of remainderman.

2. If remainderman is in possession, determines if holder is alive or deceased.

   a. If holder is deceased, determines date and place of death, and secures copy of death certificate if available to remainderman. Otherwise, corresponds with appropriate officials at place of death to secure copy of death certificate.

   Note: Such death terminates the life estate; hence no acquisition (of the life estate) from the heirs of the deceased is necessary.

   b. If holder is alive, determines address.

3. If neither is in possession, determines interest claimed by possessor and facts concerning status and addresses of holder and remainderman.
B. If both holder and remainderman are alive, either:

1. Joins the parties in interest on both the deed and Real Property Voucher, or

2. Joins the parties in interest on the deed which includes the appropriate clause authorizing payment to a specific party (see Section 9-10.3.1) and obtains execution of the Real Property Voucher by the party authorized on the deed, and if neither holder nor remainderman are in possession, clears interest of possessor as the nature of his interest dictates (see Section 8-4.2).

3. As an alternate to 1 and 2 above, the signatures of the holder and remainderman may be taken on separate deeds and either a single Real Property Voucher or separate Real Property Vouchers, provided that, in the latter case, a written agreement of a mutually satisfactory distribution of funds is available for inclusion in the transmittal package. The payment due one party is shown as a deduction from the total amount due, and the second voucher made in the amount of the deduction.

C. If holder is deceased, obtains execution of deed and Real Property Voucher by remainderman (or remainders) only and clears holders interest by including copy of death certificate in the transmittal package.

D. If for any reason (except the death of the holder) it is impossible to secure the signatures of both the holder and the remainderman or the remainderman’s heirs and devisees if deceased, the interests of all parties are acquired through condemnation action.

8-5.2 Incompetent, Mentally Ill, and Insane Persons

8-5.2.1 General

A. It is a fundamental precept of law that in order for any person to enter into a binding legal contract transaction or obligation, that person must be legally competent.

B. In general, there are two categories of Incompetent Persons considered not legally competent to enter into a legal and binding contract. They are:

1. Minors, persons under legal age; and

2. Persons who although of legal age, are suffering from some form of mental illness or other disability which renders them incapable of comprehending and understanding the consequences of their acts.

C. A person could be, in fact, incompetent at the time he signs a deed conveying the title to his property and, if he had never been legally adjudged incompetent, there would be no record notice of the fact of incompetency and persons later dealing with the property would not know that the validity of the deed is doubtful and that it might be declared void by proper court proceeding, due to the incompetency of the grantor.

D. Every person is presumed sane and competent until adjudged insane or incompetent by a court of competent jurisdiction. Therefore, unless there is an adjudication of insanity or incompetency, or unless sources, other than a mental illness proceeding disclose insanity or incompetency, the question of the legal capacity of the parties executing instruments cannot be raised.

8-5.2.2 Historical Background

For many years, under the mental illness statutes then in force (RCW 71.02.650) the order of the Superior Court declaring a person to be mentally ill and ordering hospitalization created a presumption of incompetency which status continued until such incompetent had been certified as discharged as recovered.
A. Effective Date:

The legislature passed a new comprehensive mental illness act which became effective January 1, 1974.

B. Repeal of Prior Law:

The new act repealed the entire prior mental illness — commitment procedure statute (RCW 11.02) except the sections having to do with hospital charges and except RCW 71.02.490 pertaining to federal agencies and RCW 71.02.900 concerning construction and purpose.

C. Court Order — Effect:

Under the new act, the court order entered in a mental illness case does not adjudicate incompetency. It only commits the person for treatment and evaluation.

D. Competency, Mental Illness, Effect:

A person subject to confinement resulting from any petition or proceeding pursuant to the provisions of this chapter (1973 Mental Illness Act) shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided therein.

Competency cannot be determined or withdrawn by operation of, or under the provisions of the new act.

No person shall be presumed incompetent or lose any civil rights as a consequence of receiving evaluation or treatment for mental disorder either voluntary or involuntary or certification or commitment pursuant to this act or any prior laws of this state dealing with mental illness.

It is obvious from the foregoing that the commitment of a mentally ill person for hospitalization under the new act cannot affect the legal competency of such person or his right to sign contracts and dispose of his property. This, therefore, leaves us in the position of relying upon the basic presumption of competency mentioned in Section 8-5.2.1D.

However, the foregoing should not be confused with a guardianship proceeding in which a court makes a finding of incompetency.

E. Property and Contract Rights:

Insofar as imminent danger to the individual or others is not created, each person involuntarily detained, certified or committed for treatment and evaluation pursuant to this chapter (1973 Mental Illness Act) shall have, in addition to other rights not specifically withheld by law, certain enumerated rights which list shall be posted in all facilities, institutions and hospitals.

The list of such rights includes the right:

“To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.”

F. Conclusions and Comment:

The following conclusions are fairly clear:

A commitment under the act does not affect the legal competency of the person committed. However, all that provision did was to restore the continuation of the presumption of sanity following the
commitment, a presumption which may be controverted by the facts. It is still possible, therefore, for a person who has been committed under this act to be legally incompetent at the moment he or she is called upon to sign a deed, mortgage, or contract because at that time he or she may be temporarily unable to comprehend and understand the consequences of his or her act. If a person at the time of signing a legal document is unable to understand and comprehend the consequences of his act he is not competent to sign the document.

8-5.2.4 Procedures

A. Party of interest has been adjudicated incompetent through a court determination.
   1. Agent proceeds with acquisition through the incompetent party’s court appointed guardian. (See Chapter 6 for procedures.)

B. It is suspected that interested party may be incompetent.

   The Acquisition Agent:
   1. Obtains all information available regarding relatives of said party and means of contacting them.
   2. Refers all pertinent data to the District RESM.

   The District RESM:
   1. Reviews all data submitted by the Acquisition Agent and also may:
      a. Contact relatives of interested party for additional information.
      b. Refer matter to Title and Condemnation Program Manager for recommendations.
   2. Directs the Acquisition Agent as follows:
      a. To proceed with negotiations without questioning competency of interested party.
      b. To submit parcel for condemnation so that question of competency may be resolved as a part of the court action and a guardian ad litem appointed, if necessary.

8-5.3 Minors

8-5.3.1 General

A. All persons are deemed and taken to be of full age for all right of way purposes at the age of 18 years (RCW 26.28.010). All persons married to a person of full age are considered to be of full age (RCW 26.28.020).

B. A conveyance by a minor is not void but merely voidable (i.e., the minor may disaffirm a conveyance within a reasonable time after reaching majority).

C. A sale of real property owned by a minor may be consummated by a general guardian or a guardian ad litem appointed for that purpose when the guardian acts through the court.

8-5.3.2 Rule

The state accepts a conveyance involving significant value from a minor only through the services of a properly authorized guardian.
8-5.3.3 Procedures

The Acquisition Agent:

A. If the party in interest is a young person, requests evidence of majority (e.g., drivers license, birth certificate, marriage license, etc.).

B. If the party in interest is a minor, handles the transaction directly with the minor only when the following condition is met:
   1. The property and/or rights required by the state have a value of $200 or less, and the Title and Condemnation Program Manager authorizes the transaction be made.

C. If the party in interest is a minor and Section 8-5.3.3B does not apply, handles the transaction in accordance with Chapter 6.

8-5.4 Dissolution of Marriage (Divorce)

8-5.4.1 General

A. Dissolution of a marriage is the legal separation of a man and wife by the court. The status of the community property is unaffected until the marriage is terminated on the date of entry of the Decree of Dissolution subject only to the expiration of a 30-day appeal period. If no Decree of Dissolution is entered, the filing of the legal action has no effect on the status of the parties’ property.

B. A Decree of Dissolution may include a disposition of the property of the parties including the separate property of either party, and is effective to decide the property rights of either party.
   1. If community property is not awarded to either party, the parties are legally “tenants in common.”
   2. If, prior to the decree, property is vested as the separate property of one of the parties and the property is not mentioned in the court action, the property remains the separate property as last vested.
   3. If the court action took place in another state, the validity of any award of property in this state is questionable for lack of jurisdiction.

C. A lump sum judgment against either party awarded in the decree, becomes alien against that person’s property, but if the lump sum judgment was entered in another state, it is not a lien against property in this state until the foreign judgment has been registered in this state and additional proceedings completed to levy on the local property (RCW 6.36).

8-5.4.2 Rules

A property settlement granted by any county in this state is valid as to the award or division of real property in all counties in the state.

8-5.4.3 Procedures

A. The Acquisition Agent:
   1. Obtains from the parties in interest, information concerning current marital status and any related property settlement.
2. If the field inquiries indicate a conflict with the disclosures in the title report, obtains the following information from the parties at interest:
   a. Place of the court action (county, state).
   b. Date of the decree.
   c. Full names of the parties to the dissolution.

3. Submits the information to the District RESM and requests further instructions.

B. The District RESM:

1. Makes the following determination:
   a. Whether a decree has been entered.
   b. Whether the appeal period has expired.
   c. Whether the property in question was awarded in the court action.
   d. Whether, and against whom, a judgment was entered in the court action.

2. Submits any relevant information to the title company and requests an SPC.

3. Provides the Acquisition Agent with any necessary special instructions.

C. The Acquisition Agent closes the transaction dealing with the parties in accordance with any special instructions and the following, as applicable:

1. If the property was community property and not awarded in the court action, joins both parties in a normal conveyance as tenants in common (see Chapter 9).

2. If the property was vested as the separate property of one of the parties and the property is not mentioned in the court action, obtains a normal conveyance from the party as his or her separate property (see Chapter 9).

3. If the property was awarded in the court action, obtains a normal conveyance from the party to whom the property was awarded as separate property (see Chapter 9).

4. If the court action took place in another state, joins both parties in a conveyance and/or in accordance with special instructions (see Section 8-5.4.3B3).

8-5.5 Death

Acquisition from the estate of a decedent is achieved using one of the following general procedures:

8-5.5.1 Probate

If the estate is being probated, the Acquisition Agent:

A. Confirms that the probate has been filed by obtaining an SPC (see Section 8-5.5.3C).

B. Deals with the Administrator or Executor of the estate through the attorney disclosed representing the estate.
C. When the title report shows that the probate is complete except for payment of the state inheritance tax and/or the federal estate tax, the Acquisition Agent proceeds as described in Section 8-5.5.1B, except that a letter guaranteeing payment of the taxes is obtained in addition to the usual instruments.

8-5.5.2 Reserved

8-5.5.3 Lack of Probate

If the estate is not probated:

A. The District RESM obtains an “Affidavit Re: Lack of Probate” form from the title company that issued the title report.

B. The Acquisition Agent:
   1. Assists the decedent’s surviving spouse or nearest relative in completing the affidavit.
   2. Makes a copy of the affidavit and returns the original to the District RESM.

C. The District RESM obtains an SPC that indicates who can convey title and the basis upon which the title company will insure that title.

D. The Acquisition Agent deals with the heirs named in the SPC and joins them on the instrument to the state.

E. If an heir cannot be located:
   1. The Acquisition Agent submits a written summary in his Diary of Right of Way Activities to the District RESM discussing the extent of the search.
   2. The District RESM:
      a. Coordinates with the Title and Condemnation Program Manager:
         (1) To determine whether the state is willing to acquire title subject to the interest of the missing heir.
         (2) To obtain specifications for any additional and/or alternate actions suitable to the case.
      b. Inserts and signs appropriate instructions to the Acquisition Agent in the Diary of Right of Way Activities and returns same to such agent for completion of action.

8-5.5.4 Community Property Agreement

If the decedent and the surviving spouse executed a community property agreement, the Acquisition Agent:

A. Has the surviving spouse record the community property agreement in the county in which the parcel is located.

B. Assists the surviving spouse in completing the “Affidavit Re: Lack of Probate” (see Section 8-5.5.3).

C. Obtains from the surviving spouse, or from the appropriate officials at the place of death, a copy of the death certificate and furnishes same to the title company.

D. Upon receipt of the SPC (see Section 8-5.5.3C), completes the transaction with the surviving spouse.
8-5.6 Errors in Parties

8-5.6.1 General

At any point in the chain of title where a party has failed to convey or failed to appropriately join in a conveyance, the title report may recite the failure as an encumbrance against current vesting.

8-5.6.2 Rules

A. The state investigates potentials for clearing any encumbrance due to prior errors in parties.

B. Prior errors in parties are cleared if the appropriate party can be readily located and agrees to execute the instrument(s) required by the state.

C. As determined by the DRES, prior errors in parties maybe:
   1. Cleared by specific court action brought by the state.
   2. Ignored, and the state’s parcel file documented as to the available pertinent facts.

8-5.6.3 Procedures

A. The District RESM determines the form of instrument, the language and the parties appropriate to clear the encumbrance (usually a Quit Claim deed, or an affidavit).

B. The Acquisition Agent:
   1. Attempts to locate the party indicated in the title report.
   2. If he locates the party, requests that the party execute the necessary instrument.
   3. If he fails to locate the party or if the party refuses to execute the instrument, submits a written summary to the District RESM in his Diary of Right of Way Activities including:
      a. An explanation of his attempts to secure execution of the necessary instrument.
      b. The date of the instrument/conveyance in fault.
      c. The nature of the interest in fault (e.g., fee, mortgage).
      d. The amount of interest (e.g., fractional, partnership, community property, authority of corporate agent).
      e. Whether full value was paid for the faulty conveyance.
      f. The value of the conveyance required by the state.

C. The District RESM reviews all information and contacts the DRES by telephone requesting instructions.

D. The DRES reviews the information and may request either court action or may waive further action.
E. The District RESM inserts the instructions on the Acquisition Agent’s *Diary of Right of Way Activities* dates and initials same and instructs the Acquisition Agent to, either:

1. Complete a *Negotiator’s Report* (DOT Form 262-080), or

2. Complete all other parcel transactions ignoring or handling the error in parties in accordance with any special instructions.
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Instruments

9-1 General

9-1.1 Introduction

This chapter specifies the instruments of conveyance used by the department, how they are prepared, and the standard, the special, and/or the variable language used therein. The types of instruments most commonly used are preprinted, fill-in forms. Unless otherwise specified, all instruments are prepared, signed and acknowledged in such form and manner as to make them eligible for recording with the County Auditor.

Refer to Chapter 6 for types of title or interests to be acquired and appropriate instruments of conveyance.

Refer to Chapter 8 for appropriate instruments for clearing encumbrances.

9-1.2 Rules

9-1.2.1 Language

A. Preprinted forms are used whenever possible. Custom instruments are prepared following the precise wording of the same printed form only when the space available on the printed form is inadequate for compliance with this chapter.

B. Instruments for which there is no printed model are generally custom prepared by the District Real Estate Services Manager (RESM) on a case by case basis in compliance with the requirements of this chapter and in coordination with the Title and Condemnation Program Manager.

1. The language of the preprinted forms is approved by the Attorney General Division and is adhered to in comparable situations for custom conveyances.

2. In circumstances for which there is no suitable/comparable state form, the state may also employ a preprinted, standard conveyance, affidavit, or other form provided by or acceptable to the title company issuing the PC.

3. The Director of Real Estate Services (DRES) may accept a conveyance in the format or form prepared/required by another agency or major corporate body.

C. The sample instruments illustrated in Chapter 13 serve as models for the instruments used in acquisitions by the state.

9-1.2.2 Composition

9-1.2.2.1 Preprinted Forms

A. Filled in by typewriter, error-free. Minor, clear, and neat pen and ink revisions initialed by all the parties are acceptable.

B. If sheets are appended, they are prepared in accordance with Sections 9-1.2.2.2 and 9-17.
9-1.2.2.2 Custom Forms

A. Paper: White bond, 8 1/2" x 14" size. Only one side of each sheet is used (reverse blank).

B. Typewritten: Except for the description, the instrument is double-spaced. Acceptable instruments are error-free. Minor, clear, and neat pen and ink revisions initialed by all the parties are acceptable.

C. Margins: Except for the description, margins are one (1) inch.

D. Descriptions: The legal description is typewritten, single-spaced, and has one and one-half (11/2") margins on both sides.

E. Page Numbering: Each sheet including acknowledgments and exhibits is numbered, centered at the bottom of each sheet, showing both the page number and the total number of pages of the instrument: e.g., "Page 1 of 1 Page," "Page 2 of 4 Pages."

9-1.2.3 Parcel Identification

The applicable parcel number(s) is (are) inserted on the lower right-hand corner of each sheet of an instrument; e.g., "Parcel No. 8-12345."

9-2 Elements (Paragraphs)

Unless otherwise specified and/or illustrated in this chapter, the elements of an instrument include all of the following:

A. Function Title (see Section 9-3).

B. Federal Aid Project Number (FA No.) (see Section 9-4).

C. Project Number and Title (see Section 9-5).

D. Party Clause (see Section 9-6).

E. Consideration (see Section 9-7).

F. Conveyance Clause (see Section 9-8).

G. Property Description (see Section 9-9).

H. Miscellaneous Clauses (see Section 9-10).

I. Occupancy Date Clause (see Section 9-11).

J. Delivery Clause (see Section 9-12).

K. Date of Instrument (see Section 9-13).

L. Execution (see Section 9-14).

M. Acknowledgment (see Section 9-15).

N. Acceptance and Approval (see Section 9-16).
9-3 Function Title

A. The title of the instrument is a clue to the function the instrument performs, e.g., Warranty Deed, Lease, Agreement, etc.

B. The specific function of an easement, permit lease or option is also inserted in the title, e.g., Easement for Haul Road, Permit to Install Irrigation Facility, Lease for Borrow Site, Option to Purchase Lands, etc.

9-4 Federal Aid Project Number

If federal participation is involved, the Federal Aid Project Number (FA No.) is inserted to the right of the function title. When a project on a federal aid route does not involve federal participation, the FA route and section are inserted and followed by a blank space enclosed by parenthesis, e.g., RF-037-2( ). When federal participation is not expected on a sundry site, the FA number is omitted. A detailed explanation of the FA number is given in Chapter 3.

9-5 Project Number and Title

The official project number (see Chapter 3) for which real property or property rights are being acquired is inserted at the head of every instrument to the state immediately below the Federal Aid Project Number. The project title, using the exact wording and/or abbreviations (but omitting the mile post identification) which appear on the Right of Way Plan is inserted on every instrument to the state, following the words: “In the matter of __________________.”

9-6 Party Clause

9-6.1 General

The Party Clause identifies the parties who are making the conveyance. They are usually (but not necessarily) identified as “grantors” in deeds, easements, and permits, as “lessors” in leases, etc. The name(s) of the “grantor(s)” are generally shown so as to agree with the name(s) of such person(s) as they acquired title to the property being conveyed.

The Party Clause, e.g.,

“KNOW ALL MEN BY THESE PRESENTS, that the Grantors, John Doe and Jane Doe, husband and wife . . . .”

also answers or resolves questions of the grantor’s (1) identity, (2) marital status, (3) relationship between persons, and (4) the estate or interest held by the grantors.

9-6.2 Corrective Identity

If the grantor’s correct name is questioned in the PC or if the Acquisition Agent finds the PC to be inaccurate as to identity, the party clause is used in the state’s instrument to show the correct name of the grantor.

A. If the identity as vested in the PC was correct and the identity of alternate similar names are questioned and found to be the same person, the party clause is used to clarify the identity. The correct name appears first, followed by the alternate names as follows:

“ . . . John Doe, also appearing of record as J. Doe . . . .”

B. If the grantor’s current identity is more correctly or accurately established than by the vested name in the PC, the following examples are adapted:

1. “ . . . John Olson, who acquired title as John Olsen . . . .”
2. "... John B. Doe, who acquired title as John R. Doe ..."

3. "... Mary Doe, who acquired title as Mary Jones ..."

   Note: This form is for a woman who has married since acquiring title.

4. "... Charles Martin, who acquired title as Carlos Martino ..."

5. "... John Doe Company, which acquired title as John Doe Co., ..."

6. "... John Doe, Inc., which acquired title as John Doe and Sons ...

9-6.3 Marital Status

A. Because Washington is a community property state, any deed taken by either spouse of a marital community (except as provided in B. below) becomes automatically the community property of both, and the interests of spouses (and former spouses) must be acquired or eliminated. Hence, considerable importance is attached to the correctness of a statement regarding marital status in the Party Clause. The vesting in the PC is the starting point, for the title company insures the state that the named vestee can convey good title, but if the marital status of the vestee is questioned by a comment or encumbrance or has changed since he/she acquired title, an investigation of the marital facts is required. The object is to arrive at a Party Clause which shows the currently correct names as grantors on the state's instrument (see Section 9-6.2) followed, if necessary, by (1) a statement of the currently correct marital status, and (2) if applicable, a statement clarifying the interest held.

B. A person who acquires land while single, or as a gift or an inheritance even while married, owns the land as his/her separate estate, and the joiner of the spouse is not required, although it is good practice to secure the spouse's signature as a precautionary measure. If there should be any resistance by the spouse to signing, such signing may be waived but only after ascertaining that the couple has not entered into a Community Property Agreement. If a Community Property Agreement has been executed, but not recorded in the county in which the required real property lies, a copy should be obtained and the matter referred to the District RESM for instructions. If a Community Property Agreement has been recorded in the county in which the required real property lies, it will (usually) be reported in the PC, and both signatures will be required.

C. The following are some of the terms involved in marital status questions and their precise meanings. Whenever possible, the proper term should be used to identify the grantor in our right of way deeds.

1. Widow (Widower) — A woman (man) whose husband (wife) had died.

2. Single or Unmarried — This term includes all persons who are not now married (bachelor, spinster, widow, widower, divorced).

D. On a great many of the titles encountered when acquiring right of way, no question of the marital status of the vestee will be raised by the title company in the PC. A simple investigation by the Acquisition Agent aimed at verifying the marital status shown in the PC will permit him (assuming the fact of verification) to phrase the Party Clause in the exact same language as the vesting. (The facts elicited in his investigation are reported in the Diary of Right of Way Activities, DOT Form 260-001.)
Where the title company does raise a question concerning marital status (often through the use of the word “presumptively”), or where the investigation (D., above) does not verify the marital status given in the PC, the question may be resolved by considering the following typical situations:

1. If the PC reads “John Jones, presumptively subject to the community interest of his wife, if married on January 16, 1936, date of acquiring title,” this means that the deed to the vestee reads merely “John Jones” and does not disclose whether or not John is married.

The parties should be questioned as to their marriage date, and if it is found that they were husband and wife on “January 16, 1936,” this fact should be incorporated in the party clause of the deed. It is not sufficient merely to have his present wife sign the deed. The following is a good form to use:

“John Jones and Mary Jones, husband and wife on January 16, 1936, and at all times since.”

If questioning discloses that John was single on the above date, the party clause should appear as follows:

“John Jones, a single man on January 16, 1936, and Mary Jones, his wife.”

If it is found that on said date, John was married to someone other than Mary, then the interest of that former spouse must be secured, or a determination made that it has passed properly to John. The existence of a former spouse is the most dangerous possibility of this type of vesting, and is the condition against which every precaution should be taken.

2. If the PC reads “John Jones and Mary Jones, presumptively as community property,” this means that the vesting deed ran to John Jones and Mary Jones, but failed to identify them as husband and wife. (They might be brother and sister, for instance, and each of their interests would be presumptively subject to the community interest of his or her respective spouse.)

In this case, if it is found that they are married, it is sufficient to take a deed reciting that they are husband and wife.

If it is found that they are not married to each other, the Acquisition Agent makes an investigation to determine the marital status of each person, reporting the facts found in his Diary of Right of Way Activities (DOT Form 260-001), and refers the matter to the District RESM (or his designee) for instructions.

3. Some title companies also show a title as being in “John Jones, husband of Mary Jones, presumptively as community property,” this means that the deed ran to John Jones, without disclosure of his marital status, but the title company knows from its own records that he was the husband of Mary on the date of acquiring title.

In this case, it is sufficient to accept a deed signed by John and Mary, identifying them as husband and wife in the party clause.

4. If the PC shows the title to be in Mary Jones, a widow, or Mary Jones, a spinster, and you find in contacting her that she has remarried, or married, the following is the proper form for the party clause:

“Mary Schwartz, who acquired title as Mary Jones, a widow, (or a spinster), and Albert Schwartz, her husband.” (Technically the husband need not join in the deed, since the property is the separate estate of Mary. But see B. above for the possible effect of a Community Property Agreement).

5. Combinations and/or variations of the above examples should be referred to the District RESM for instructions. Also, see Section 8-5.5 with respect to probate in the event of the death of a vestee.
9-6.4 Corporate Names

9-6.4.1 Private Corporations

The name of the corporation, using the exact words as filed in the Office of the Secretary of State in Olympia, is shown in instruments to the state. Any variation is authorized by the District RESM and explained in the Encumbrance Report on the Right of Way Acquisition Transmittal. (But see Section 9-6.2 B. if PC vesting varies from name as recorded in Office of Secretary of State.)

9-6.4.2 Governmental Agencies

Acquisition from political subdivisions of the state of Washington (cities, counties, etc.) should be headed as shown in the title report, e.g., “________ County, a political subdivision of the state of Washington,” “City of __________, a municipal corporation of the state of Washington.”

9-6.5 Estate or Interest

When legally empowered to execute an instrument as a fiduciary, the party clause includes the name and the capacity of the party who executes the instrument for the vested owner. A fiduciary’s name appears exactly as shown in the PC and/or the court appointment. See Sections 9-6.6 to 9-6.8, below. Although an Attorney-in-Fact has fiduciary responsibilities, he has no estate or interest in the property to be conveyed; hence, the name of the principal only appears in the party clause. (See Section 9-14 as to execution by an Attorney-in-Fact.)

9-6.6 Trustee

A. If a Trustee is executing the instrument only as a fiduciary, the following examples are adapted:

1. “... Richard Roe as Trustee for John Doe ...”
2. “... Richard Roe as Trustee under the will of John Doe, deceased ...”
3. “... The Grand National Bank as Trustee for John Doe ...”

B. If a Trustee is executing the instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. “... Richard Roe, a single man, as his separate estate (etc., see Section 9-6.3) and as Trustee for John Doe, as his separate estate ...”

9-6.7 Executor/Administrator

A. If an Executor/Administrator is executing an instrument only as a fiduciary, the following example is adapted:

1. “... Richard Roe as Executor (Administrator) of the Estate of John Doe, deceased ...”

B. If an Executor/Administrator is to execute an instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. “... Jane Doe, individually and as Executrix (Administrator) of the Estate of John Doe, deceased ...”

C. Trustees, Executors, and Administrators are also collectively referred to as Special Representative as shown in the following example:

“... Richard Roe as Special Representative for the Estate of John Doe, deceased ...”
9-6.8 Guardian

A. If a Guardian is executing an instrument only as a fiduciary, the following example is adapted:

1. "... Jane Doe as Guardian of the Estate of John Doe, Junior, a minor (an incompetent, an insane person) ..."

B. If a Guardian is executing an instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. "... Jane Doe, individually and as Guardian of the Estate of John Doe, Junior, a minor (an incompetent, an insane person) ..."

9-6.9 Tenants in Common and Joint Tenants

If the PC shows title vested in the parties as Tenants in Common (or as Joint Tenants), the following example is adapted:

1. "... John Doe and Ruth Roe, as Tenants in Common ..."

2. "... John Doe and Jane Doe, husband and wife, as Joint Tenants ..."

9-6.10 Fractional Interest

A. If the PC shows title held by two or more persons in fractional interests, the sum of such interests is verified by the Acquisition Agent to equal 100 percent and the parties are joined on the instrument, adapting the following example:

1. "... John Doe, Jane Doe, Ruth Roe and Jim Olsen, as their interests may appear ..."

B. If the space on the form instrument is insufficient, the party clause may be altered by:

1. Removing (striking out with a single straight line) the word "grantor" and,

2. Inserting instead, the following:

   "... The undersigned grantors, as their interests may appear ..."

9-6.11 Partnerships

A. If the PC shows title held in name of a firm which proves to be a partnership:

1. If a Limited Partnership and evidence is available that only some of partners are authorized to convey the real property of the firm, the following is adapted:

   a. "... (FIRM NAME), a Limited Partnership ..." (See Section 9-14.3.5 for execution.)

2. If a Limited or General Partnership and no evidence is available as to authority to convey, the following is adapted:

   a. "... John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife, (continuing through all the partners and their spouses), being all the partners of (FIRM NAME), a (Limited) Partnership ..."
B. If the PC shows title held by one or more persons who prove to be all or part of a partnership which in fact is doing business under a firm name, the following is adapted:

1. "... John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife; (continuing through all the partners and their spouses), partners doing business as (FIRM NAME) . . ." 

9-7 Consideration

9-7.1 Lump Sum

A. If no money is to be paid, the language used is:

1. "... Mutual Benefits . . ." (The words "the sum of" and "Dollars" on the preprinted forms are stricken.)

B. If money is to be paid for the purchase of property or a real property interest in the lands to be acquired, the following language is used in lieu of reciting the full amount of the just compensation for the parcel:

1. "... Ten and No/100 ($10.00) Dollars "and other valuable considerations . . ."

Note: The word "Dollars" is printed on many forms at the end of a line. Hence, the parenthetical numerical amount is written in before the word "Dollars"; it normally should follow the word "Dollars" as in C. below. "Other valuable considerations" includes construction items and the like. If actual money paid is less than $10, the dollar figure in the above example should be reduced to a number as small or smaller than the dollars paid.

C. If money is to be paid in relation to an agreement or for a release of an interest, e.g., damages, judgement, or lease, in a secondary Real Property Voucher, the specific amount of the consideration is shown in words and numerals:

1. "... ONE THOUSAND FIVE HUNDRED AND NO/100 Dollars ($1,500.00) . . ."

9-7.2 Rate

If money is to be paid periodically as in a lease, the amounts to be paid and the frequency of payments are included, adapting suitable language based on the following examples:

A. "... Ten and No/100 Dollars ($10.00) per month . . ."

B. "... Ten and No/100 Dollars ($10.00) per month together with Two Cents ($0.02) per cubic yard of materials removed by the state of Washington and/or its assigns during each such monthly period . . ."

C. "... Mutual Benefits and Six Cents ($0.06) per cubic yard of materials removed by the state of Washington and/or its assigns, payable annually (semi-annually) . . ."

D. "... On a royalty basis at the rate of $_________ per cubic yard of material removed by the state as measured by a cross section survey of the excavated area at the completion of each contract, said royalties to be paid promptly at the completion of each such contract . . ."

9-8 Conveyance Clause

9-8.1 General

A. The conveyance clause states the exact terms and conditions of conveyance. The complexity of the language varies with the function of the conveyance.
B. A deed normally contains a simple statement to "convey and warrant," ("Warranty Deed") or "convey and quit claim" (Quit Claim Deed).

C. In an "Access Rights Only" deed, the complete conveyance clause also becomes the access clause.

D. Easements, permits, leases, options, etc., require additional conveyance language. See Chapter 13 for examples.

E. The conveying language is followed by the name of the grantee ("the state of Washington") and nature of the interest conveyed, e.g., "the following described real property" (in a deed); "the temporary right to use and occupy the following described real property" (in a lease or permit).

9-8.2 Easement

A. Conveys permanent interest in specific property rights. The interest acquired may be extinguished by merger, abandonment, or relinquishment. (The department does not use an easement to acquire temporary property rights.)

B. The Easement for __________ (DOT Form 262-102) contains the basic easement language ("convey and grant") into which is inserted the language which describes only the interest which the state acquires, as for example:

1. "... Construction and maintenance of a CHANNEL CHANGE FACILITY of the Cedar River ..."

9-8.3 Permit

A. Grants temporary interest in specific property rights. The interest acquired is extinguished in accordance with the terms and conditions incorporated within the executed permit itself.

B. The Permit to __________ (DOT Form 262-103) contains the basic permit language ("grants") into which is inserted language which describes only the interest which the state obtains, and establishes the termination of the permitted rights.

1. Description of the interest which the state obtains is inserted, adapting language such as the following:

   a. "... CLEANING DRAINAGE FACILITY by the state or its assigns, appropriately depositing materials removed from such facility upon the embankments adjacent thereto ..."

   b. "... and ACCESS ROAD for the exclusive use of the state or its assigns to conveniently transport highway materials and equipment ..."

2. Termination is generally established as following the completion of some act rather than upon a date, although a termination date may be used if appropriate. The following examples are adapted:

   a. "... (until) completion of construction and opening of the said highway to public use ..."

   b. "... (until) completion of construction and opening of __________ (full, official name of project) __________ to public use ..."

   c. "... (until) (month, day, year) ..."
9-8.4 Lease

A. A Lease obtains specific rights of tenancy. The termination of use of the property is specified and the rights and privileges of the lessee are specified.

B. The Lease for __________ (DOT Form 262-110) contains the basic lease language ("grants"), into which is inserted the language which establishes rights and privileges of the lessee and the termination.

1. See Section 9-7 for rental rate clauses (consideration).

2. The lessee’s rights and privileges are described, adapting language such as the following:

   a. ". . . the right, permit, license, and lease to use and occupy (for the purpose of) STOCKPILING OF ROAD MATERIAL including depositing and storing crushed stone and other highway materials as the exclusive property of the state . . ."

   b. ". . . the right, permit, license, and lease to use and occupy (for the purpose of) the REMOVAL OF EARTH MATERIALS, including excavation and removal of rock, gravel, sand, or earth, from any portion of said land; storing materials and operating all necessary machinery and equipment thereon . . ."


9-8.5 Option (To Be Published)

9-8.6 Consent to Change of Grade

The Consent to Change of Grade (DOT Form 262-101) is used only in those cases where the change of grade is to be accomplished entirely within the existing right of way.

9-9 Property Description

Basic Descriptions

A legal description, to be adequate, must be capable of being located on the ground with reasonable certainty by a competent surveyor, either with or without the aid of extrinsic evidence. (21 Wn. 371; 3 Wn. 2nd, 567; 12 Wn. 2nd, 589; 34 Wn. 2nd, 563.)

It is impossible in a short outline to cover all of the fine shadings of meaning which have been placed by our courts on language used in the description of land. When a comparison is being made of the language in a given description to the examples cited herein, care should be taken to see that wording is exactly as it was in the case cited. The Title and Condemnation Program Manager will help with the interpretation of descriptions.

9-9.1 Illustrations of Adequate Description

A. The following are examples of adequate descriptions.

1. Any section or subdivision of the U.S. Rectangular system of survey.

2. Descriptions by reference to recorded plats, or to private surveys attached to and incorporated by reference.

3. Metes and bounds tied to any point on either of the above, directly or by reference to an earlier deed, which in turn is so tied.
B. A description fails if for any reason it is vague, indefinite, or so ambiguous as to be impossible to interpret. Sample inadequacies:

1. 160 acres, more or less, in Section 2 -13 N, -2 E. (3 Wn. 2nd 565).
2. A house at 2626 West Fairview (28 Wn. 2nd 110).
3. "Approximately 207 feet" (24 Wn. 2nd 586).
4. Description by reference to an unrecorded plat (21 Wn. 2nd 593).
5. A description failing to name the county, state, or meridian and range (16 Wn. 34).

C. The following have been held to be sufficient; however, their usage is not recommended:

1. "All the real estate in the state of Washington of record in the name of the grantor" (96 Wn. 592).
2. "All property owned" by a certain company in a specified county. Held good as to all lands held under recorded title and would not pass lands acquired under an unrecorded deed (28 Wn. 2nd 953).
3. "Tax lot 3, Section 32 -Twp. 12 N., R. 42, as at present designated on the tax rolls of the County Assessor of said County." Sufficient provided the Assessor’s tax rolls contain an adequate description of the tax lot (38 Wn. 2nd 886). In spite of this case, the use of tax lot numbers as legal descriptions should be avoided at all costs. It is common practice in all Assessors’ offices to abbreviate and paraphrase the original description in the interest of brevity. In many cases, the abbreviated description covers the same parcel of land as the original, but in many other cases, important controlling or qualifying language is omitted or typographical errors are introduced, any of which could destroy the accuracy of the description.

D. A court may apply its own wisdom in some cases, notwithstanding B above. If a deed appears adequate on its face, but a dispute arises over the location of the lines on the ground, or if the intent of the parties is obvious when certain facts are stricken or altered, the court will allow oral testimony to determine the true meaning of the description. For example:

1. As where no block number is recited, but the grantor owns land only in one block in the recited addition, the court has read into the deed the missing block number (24 Wn. 225, 53 Wn. 285). The court has also substituted the word “southwest” for southeast in order to make the description close (8 Wn. 642).
2. In a description failing to name the meridian “... Range 42 ...,” the court supplied the missing term “East Willamette Meridian” as this was the only possible intention since Range 42 West would fall well out in the Pacific Ocean (38 Wn. 886).

9-9.2 Controlling Elements of a Description

A. Natural and artificial permanent objects referred to in the description control over courses and distances. As where a metes and bounds description overruns a highway, and yet the highway is recited as being a boundary of the property, the highway controls (108 Wn. 413, also see 163 Wn. 10). The boundaries of a city lot are controlled by lines as actually run on the ground, as shown by surveyor’s stakes, rather than the lot lines as shown by the plat (30 Wn. 687, 94 Wn. 395).

B. Where there is a variance between field notes and monuments as set out by the U.S. Government surveyors, the monuments prevail (41 Wn. 583, 70 Wn. 435, 172 Wn. 405).
C. Metes and bounds control over the other elements. As in a conveyance by metes and bounds which also recites that the conveyance includes so many acres, the courses, and distances control even though they include a larger area than recited (38 Wn. 151).

D. Reference to an adjoiner will control over recited bearings and distances (115 Wn. 454, 124 Wn. 179).

E. Maps or field notes, where incorporated in a description by exhibit or reference, will control in case of conflict with courses and distances recited in the description (5 Wn. 425, 57 Wn. 392).

F. Where there is a conflict in boundaries in two deeds from the same grantor, the title of the grantee in the deed first executed is superior (57 Wn. 150, 196 Wn. 54).

G. In case of a conflict of terms in a description, it will be construed most strongly against the grantor (57 Wn. 392).

H. One may reject a false and impossible part of a description if by so doing a perfect description remains (57 Wn. 150).

I. The existence of an adequate legal description is only the preliminary step to establishing the property lines on the ground. The linking factor between the description and the boundary on the land is the monument. Monuments may be any visible, tangible, physical object in existence which marks a point or a line on the earth’s surface. The following are typical adequate monuments:

1. Clearly marked concrete posts (as are used by the federal surveyors to mark section and ¼ corners).
2. The line of ordinary high tide or high water.
3. The thread of a stream.
4. A tree, or a row of trees.
5. An iron pipe.
6. A bench mark (brass disc emplaced by USCGS).
7. A fence.
8. A building.
10. A sidewalk.
11. A cliff.

A full discussion of the importance of monuments and the requirements for establishing their genuineness is beyond the scope of this text, but an excellent analysis of the problems involved appears in Surveys, Subdivision and Plating, and Boundaries, Bureau of Governmental Research and Services, Report No. 137. Published by University of Washington Press. 1958, Page 67, et seq.
9-9.3 Rectangular Survey Descriptions

A. The rectangular survey system was adopted in 1785. The system has been used in most of the states. For the purposes of the rectangular survey, the states of Washington and Oregon form a region. This region is quartered by a north-south line (the Willamette Meridian) and an east-west line (the Base Line) which intersect in Portland, Oregon (see Figure 9-9.3A). The tiers lying north or south of the Base Line are numbered consecutively and are called Townships. The columns lying east or west of the Willamette Meridian are numbered consecutively and are called Ranges. Each Township and Range also bears a compass direction which indicates its direction from the Base Line and from the Willamette Meridian respectively. Thus, the area marked with an “X” on Figure 9-9.3A is described as “Township 6 North, Range 3 East, Willamette Meridian.” The Township (T or Twp) always appears first and the Range (R or Rge) second, followed by the Meridian (Willamette Meridian = WM). In the sample given, the information would usually appear in abbreviated form: “T6N, R3E, WM.”

The Townships and Ranges are bounded by lines which are drawn parallel with the Base Line and the Willamette Meridian. In order to make up for the curvature of the earth, correction lines are inserted (after some variation in the early days) every 24 miles.

Figure 9-9.3A
Townships and Ranges

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B. Each Township consists of 36 sections (see Figure 9-9.3B), and each section ideally contains 640 acres. In practice, sections rarely are perfect.

The statute requires only the setting of the section corners, but in most instances in this state, the federal surveyors also set the ¼ corners. The latter are required to be midway between the section corners on the section lines. The center lines are established by drawing straight lines connecting the ¼ corners.

The method of further subdivision by private survey is to establish mid-points between the section corner and ¼ corners (these are ¼s corners). Straight lines connect these mid-points in each ¼ with the corresponding mid-points on the opposite side.

Figure 9-9.3B
Land Areas and Dimensions

Change 25
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C. Once the corners have been placed by the Federal Surveyors and conveyances made, they stand as the true corners. This holds true no matter how small or large an error might have been made in the setting of the corners. Even with errors as great as those shown in Figure 9-9.3C, the monuments stand as placed and determine the size of the section and its subdivisions. However, in the absence of the original monuments, or witness marks, the field notes will control (41 Wn. 583). The more rugged the country, the less likely the existence of actual sections that are “perfect” or “ideal.”

The conveyance of large tracts of land within such a section is normally accomplished by the subdivision style of description. It is necessary to recite the section, township, range, county, and state, as well as the subdivision of the section, to complete the identification of the property. Further subdivision within such a section is accomplished by measurement (as distinguished from area, see Section 9-9.6C). For example, in Figure 9-9.3C, the N ½ and S ½ of SE ¼ NE ¼ are determined by connecting the mid-points on the East and West Lines of the SE ¼ NE ¼. The resultant areas and direction of the dividing line have no bearing on the problem unless the description specifically says the N ½ in area of SE ¼ NE ¼. In the latter case, the same rules apply as in subdividing platted land. (See Section 9-9.6C.)

Figure 9-9.3C
The Size of a Section is Determined by its Monuments (Example)
9-9.3.2 Hazards in Interpretation

9-9.3.2.1 Dimensional Units

Unless a perfect subdivision is involved, the E 660' of the NE ¼ NE ¼ is not the same as the E ½ NE ¼ NE ¼. Similarly, the West 20 acres of the NE ¼ of the NE ¼ is not identical with the W ½ of the NE ¼ of the NE ¼. In the first case the east-west dimension may well be other than 1320' (¼ = 660'), and in the second the "40" may actually contain more or less than 40 acres.

9-9.3.2.2 Different Points of Reference

One of the most common faults in the description of parts of a Government subdivision arises in conveyances using two different points of reference. In Figure 9-9.3.2.2, conveyances of Tracts 1 through 6 have been made by reference to the West line, as follows:

"The West 200' of the NE ¼ of the NE ¼," describes Tract 1. Similarly, "the East 200' of the West 400' of the NE ¼ of the NE ¼," describes Tract 2, etc.

An error will be introduced if Tract 7 is described as "The East 120' of the NE ¼ of the NE ¼" on the assumption that the subdivision is regular in size. The only safe technique for describing Tract 7 is to refer to the entire subdivision and except therefrom all lands which have been conveyed earlier, as follows:

"The NE ¼ of the NE ¼ EXCEPT the West 1200 feet."
Figure 9-9.3.2.2
Description of Tract 7 (Example)
9-9.3.2.3 Descriptions Involving Exceptions

Language and punctuation are extremely important. Minor changes in language and punctuation can have major effects on the description. The shaded areas in Figure 9-9.3.2.3 represent the tracts described by the following descriptions. For each pair of descriptions, note the effects of minor changes of language and punctuation.

A. 1. The N $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, except the S 15 acres.
   2. The N $\frac{1}{4}$ of the following described tract: The NE $\frac{1}{4}$ NE $\frac{1}{4}$, except the S 15 acres.

B. 1. The E $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, except the East 30' thereof for county road.
   2. The W $\frac{1}{4}$ of the following described tract: The SE $\frac{1}{4}$ NE $\frac{1}{4}$, except the West 30' thereof for county road.

In each of the above cases, the language and punctuation determine how the exception is to be taken and, therefore, the size of the tract described.

Figure 9-9.3.2.3
Language and Punctuation and Their Effect Upon Descriptions (Example)
9-9.3.2.4 Ambiguity

Care should be taken to avoid combining several different subdivisions into one description in such a way that interpretation is difficult. In the following example, to what does the “W ½” refer?

“The W ½ of the NE ¼ and the SE ¼ of Section . . .”

If the intention is for the “W ½ to apply only to the NE ¼,” the following would be better:

“The SE ¼ and the W ½ of the NE ½ of Section . . .”

If the intention is for the W ½ to apply to both quarter sections, the following would be better:

“The W ¼ of the E ¼ of Section . . .”

9-9.3.3 Government Lots

Under the U.S. rectangular survey system abnormally-sized subdivisions of a section are called Government Lots and are numbered. Examples of the causes of Government Lots are illustrated in Figure 9-9.3.3.

A. When the excesses or shortages in the area of subdivisions are caused by correction lines, the corrections are made by designating the northerly and westerly subdivisions of the section as Government Lots (see A in Figure 9-9.3.3).

B. Government Lots are created in those subdivisions which border a grant which preceded the U.S. rectangular survey. For example: Donation Land Grants are excluded from subdivision (see B in Figure 9-9.3.3). Similarly, when a mining claim is patented, the U.S. Bureau of Land Management draws an amended plat of the section and assigns Government Lot numbers to the remaining portions of subdivisions which border the patented mining claim.

C. Government Lots are also created where the normal layout of a section is precluded by the existence of a body of water (see C in Figure 9-9.3.3); e.g., along the shores of Puget Sound, large lakes, or rivers.
A. Caused by correction lines.

B. Caused by a Donation Land Claim.

C. Caused by a large body of water.

Figure 9-9.3.3
Government Lots and Normal Subdivisions (Example)
9-9.3.4 Tide and Shorelands

One of the areas of greatest confusion exists in the definition of "navigable" bodies of water. The Washington State Supreme Court has held that to be navigable within the meaning of Article VII of the state Constitution, a body of water must be capable of being used to a reasonable extent in the carrying of commerce in the usual manner by water, and be so situated and have such length and capacity as will enable it to accommodate the public generally as a means of transportation. (167 Wn. 385, 195 Wn. 537, 16 Wn. 2nd 107).

On attaining statehood (November 11, 1889), the state of Washington asserted its ownership of the beds and shores of all navigable bodies of water in the state, excepting only those previously patented by the Federal Government. The question of the navigability of any particular stream or body of water can be answered only by a decision of the State Supreme Court — in the absence of such a decision, DNR assumes the stream or body of water to be navigable if it has been meandered.

All "navigable" rivers are meandered (how the surveyor was to determine this point is uncertain). Also meandered is any river whose right angle width is three chains (198 Engineer's) or more, and all lakes of 25 acres or more (see Manual of Surveying Instructions, U.S. Department of Interior, Bureau of Land Management, 1947, U.S. Government Printing Office, Superintendent of Documents).

Therefore, the boundary between the uplands and the abutting tide or shorelands varies according to the history of the upland title as follows:

A. If the Government Lot was patented (a patent is the original conveyance by which the real property is transferred from the United States to private ownership) prior to statehood, its outer boundary is either the "ordinary high water mark" (see Section 3-2) or the meander line, whichever is farther out (see Government Lot 2 in Figure 9-9.3.4).

B. If the Government Lot was patented after statehood, its outer boundary is the "ordinary high water mark" since everything beyond that line now belonged to the state (see Government Lot 1 in Figure 9-9.3.4).

The upland owner has no rights of any kind in the abutting tide or shorelands unless he has acquired the said lands. (Note: The upland owner of Government Lot 2, Figure 9-9.3.4, "has acquired" some (at least) of such tide lands (shorelands) if he acquired under A above and the meander line is "farther out," however, they are legally uplands and not tide or shorelands within the meaning of this section.) Until 1971, the upland owner had a limited preferential right to acquire the abutting tide or shorelands from the state. In that year, the legislature prohibited all further sales of tide or shorelands except to public agencies (RCW 79.01.470). It is still possible to arrange for exchanges of tide or shorelands, or to lease such lands from the state for up to 55 years.

On the other hand, the upland owner who has acquired the abutting tide or shorelands is entitled to all of the rights peculiar to a riparian or littoral owner, and, in particular, has a perpetual right of access to the navigable waters adjoining. Thus, when Lake Washington was lowered by the opening of the Lake Washington Ship Canal, the owners of the adjacent uplands and shorelands automatically acquired title to the relitied lands and the outer limit of their title extended to the new Inner Harbor Line (76 Wn. 158).

Up to March 8, 1911, conveyances of tidelands by the state were limited to the lands between the outer limits of the Government Lot and the mean low tide line. After that date, the tidelands were conveyed out to the extreme low tide line.

Care should be taken in the examination of a state deed for tidelands to ascertain that the deed is not merely for the limited purpose of growing oysters. Such a deed does not carry fee title, but limits the use of the lands for the purpose of growing oysters. Oyster land deeds can usually be quickly recognized since the majority of these conveyances contain metes and bounds descriptions whereas tide and shorelands are normally sold by the front foot abutting upon a described length of the meander line. There were several acts which authorized oyster land conveyances, and each contains a reversionary clause which provides that the lands will be forfeited back to the state when they are no longer used for growing oysters or if they are used for any other purpose:

Right of Way Manual
M 26-01

Change 25
September 1991
Chapter 24, Laws of 1895:

_The Bush Act_, enacted March 2, 1895, repealed 1935, provided oyster lands revert to the state when they are used for any purpose other than the cultivation of oysters.

Chapter 25, Laws of 1895:

_The Callow Act_, enacted March 4, 1895, repealed 1935, provided that oyster lands revert to the state when they cease to be used for the cultivation of oysters.

Chapter 195, Laws of 1919:

This act affects only a few isolated tracts.

Chapter 255, Laws of 1927:

The reversionary rights of the state can be extinguished by purchase, and by the acquisition of such rights, the holder of any oyster land deed can acquire full fee title.
Land Description

Gov. Lot 1
Patented on or after Nov. 11, 1888

Gov. Lot 2
Patented before Nov. 11, 1889

Upland owner acquires some fall or shore land in this example, but they are legally uplands.

Figure 9-9.3.4
Limits of Upland Ownership (Example)
9-9.3.4.1 Classes of Tide and Shorelands

All tide or shorelands in the state are either first- or second-class tide or shorelands.

First-class tide or shorelands are those lying within the corporate limits of a city and within 2 miles on either side thereof. Within the city and for 1 mile on either side thereof, the outer boundary of first-class tidelands is the inner harbor line. Between the first and second mile, the outer limits are the same as for second-class tide or shorelands. (see Figure 9-9.3.4.1). The lands between the inner and outer harbor lines may be leased from the state for the benefit of navigation or commerce. The inner and outer harbor lines define the harbor area, with the outer harbor line marking the outermost limit of improvements such as piers or docks.

Second-class tide or shorelands are all others than those defined as first-class. The outer boundary of second-class tide or shorelands (and of first-class tide or shorelands lying between the first and second mile beyond the city limits) is the extreme low tide line if conveyed by the state on or after March 8, 1911, the mean low tide line if conveyed by the state before March 8, 1911, or the line of navigability (see Figure 9-9.3.4.1). The line of navigability is a line where the water is of sufficient depth for ordinary navigation; at least one court has ruled that that is also the test for locating the Inner Harbor Line (76 Wn. 58).

Tide and shorelands are classified as of the date of their sale by the state. Therefore, a parcel which was originally sold as second-class tidelands would remain so classified and would retain its second-class boundaries, even though the parcel was later engulfed by an expanding city.

Figure 9-9.3.4.1
Classes of Tide and Shorelands
9-9.3.4.2 Lateral Boundaries of Waterfront Tracts

A. When tide and shorelands are sold, they are usually described by the front footage abutting upon a described length of the meander line. No direction is given to the lateral end lines. Hence, a considerable body of law has been built up to solve disputes in this area. See Section 9-9.4 as to lands bounded by unnavigable bodies of water.

B. The lateral lines of a waterfront tract are generally extended out into the water approximately at right angles to the shoreline or line of the ordinary high water mark. Figure 9-9.3.4.2B illustrates the point that an upland owner (e.g., the owner of tract #2) is not entitled to extend his boundary lines out into the water along their upland directions, but must erect lines at right angles to the shore (Speth vs. Larsen, 20 Wn. 2d 500, Kanin vs. Lister, 27 Wn. 2d 785).

![Diagram of lateral boundaries of waterfront tracts](image_url)
C. The exception to this rule is in the case of properties located on a cove. The State Supreme Court settled a lateral property line dispute in a cove by connecting property lines at the shoreline with proportionate lengths of frontage at the line of navigability. Figure 9-9.3.4.2C illustrates the principle of granting each owner of waterfront on a cove a proportionate share of the water frontage on the line of navigability.

Figure 9-9.3.4.2C
Lateral Boundaries of Waterfront Tracts on a Cove (Example)
9-9.3.4.3 Development of Tide and Shorelands

The freedom to develop tidelands, shorelands, and the abutting "wetland areas" is now regulated by the Shoreline Management Act of 1971 (RCW 90.58). "Wetland areas" are those lands extending landward for 200 feet from the ordinary high water mark, and all marshes, bogs, swamps, river deltas, and flood plains. With certain minor exceptions (e.g., single family residences not exceeding 35 feet in height, barns on agricultural wetlands, normal protective bulkheads for single family residences, etc.), any development within the "wetland areas" requires securing development permits in accordance with the requirements of RCW 90.58 in addition to the usual building permits.

In addition, the Chelan Case (Wilbour vs. Gallagher, 77 Wn. 2d 307) also restricts the right to develop tide or shorelands. In this case, the Court ruled that, even though the area in dispute was owned in fee (subject to the rights of the Chelan Electric Co. and its successors to impound the waters of the lake and to raise its level to an elevation of 1,100 feet) by the defendants, the defendants must remove a landfill which they had placed in Lake Chelan on the grounds that the landfill interfered with the rights of the public to use the waters of the lake.

9-9.4 Lands Bounded by Unnavigable Bodies of Water

Generally, a property bordered by an unnavigable river, stream, slough, or body of water will carry title to the "thread of the stream" or the center of the lake. However, if the legal description uses some clearly limiting term (e.g., "to the bank of 'Z' Creek"), the grantee has not acquired any interest in the bed of the stream.

When an unnavigable stream forms the boundary between two properties, and the stream gradually shifts its location (by erosion on one side and accretion on the other), the boundary between the properties shifts with the shifting stream. This has been established by many court decisions on the basis that the owner cannot identify that portion of his land which has been washed away, carried downstream, and deposited on another's land. Thus, in A of Figure 9-9.4, owner A acquires title to the land lying westerly of "Z" Creek as the creek slowly changes course.

On the other hand, when the stream suddenly jumps its bank and takes a new course, as in a spring flood (avulsion), the property lines do not shift. Thus, in B of Figure 9-9.4 the property line between owners C and D does not change because of the flood on April 6, 1964.
Figure 9-9.4
Properties Bordered by Unnavigable Streams (Example)
9-9.5 Metes and Bounds Descriptions

This method of land description involves locating property by: (a) a reference and tie to a legal monument (or point of public record) and (b) an outline of the courses and lengths of each line of the perimeter of the property.

The point of origin in any metes and bounds description is normally called "the point of beginning." If the property boundary does not include the monument at which the description begins, and a tie call or calls must be used to get to the first corner of the property being described, the first corner of the description and the end of the tie are identified as "the true point of beginning," and the same term is again used in the closing call.

9-9.5.1 Controls

A. A good description makes frequent use of "controls" which will govern over either bearings or distances recited. For instance, it is common practice on the closing course to recite "... more or less, to the (true) point of beginning." This final call will then automatically be forced to close on the (true) point of beginning in spite of any errors of survey or description language.

B. The following are examples of other common controlling language:

1. "Thence North 89° 59' East 590', more or less, to the west line of Primary State Highway No. 16, Twisp to Winthrop." This call would run to the west line of the highway even if the true distance is actually 600 feet. Similarly, the call does not overrun the highway, even though the true distance is only 550 feet. This is true even without the words, "more or less" appearing in the call (108 Wn. 413).

2. "... thence North 17° 31' West along the southwesterly right of way line of the N.P.Ry.Co. ..." Regardless of the true bearing of the railway right of way line, this call would follow along the right of way boundary.

3. "... thence East 120', more or less, to the southeast corner of a tract of land conveyed to Elmer Fudd, by deed recorded in Vol. 799 of Deeds, Page 601, records of said county ..." (124 Wn. 179). This is good practice, particularly when describing property adjacent to a tract which was carved out of a larger parcel at some date prior in time. Such a point in a prior description may even be used as a "point of beginning." Care should be taken, however, to be certain that the description in the deed referred to is adequate. Such a control will insure against an accidental hiatus (gap) or overlap in the descriptions of the two parcels.

9-9.5.2 Description of Curved Lines

Boundary lines running along curves are frequently encountered in descriptions bordering in highways, county roads, and railroads.

A. A description of the line in Figure 9-9.5.2A would read: "Beginning at the Northwest corner of Section 17, Township _________, Range _________ E, WM; thence East along the North line of said section 301.27'; thence along the arc of a curve to the right having a radius of 150.0 feet a distance of 127.21 feet, (or through a central angle of 45°; thence South 45° East 175.0 ft; thence on the arc of a curve to the left having a radius of 600 feet a distance of 450 feet; thence North 80° East ..."
B. A compound curve is one in which the radius of the curve is changed somewhere along the arc without the intervention of a tangent course.

The description of the line Figure 9-9.5.2B would read: "thence along the arc of a curve to the right having a radius of 100 feet a distance of 102.17 inches; thence along the arc of a curve to the right, having a radius of 300 feet, a distance of 193.37..."
9-9.6 Platted Property

The recording of an official plat with the County Auditor considerably simplifies the legal descriptions of the properties shown on the map. Generally, any lot or block identified on the face of the plat can be accurately described by simply naming the lot, block, name of the addition, and the name of the county and state and reciting the volume and page of plats and the county where the official copy of the particular plat has been recorded. The name of the plat, as well as the volume and page, should be taken only from reliable sources.

Where the conveyance covers all of a given lot or block, little difficulty can arise if care is taken to recite the plat name and recording information accurately. Problems do, however, frequently arise in the description of part of a platted lot.

Where the lot is rectangular and oriented N and S, or E and W, there are few difficulties encountered in describing a fraction of the lot. The east 100 feet, or the east 1/4, or the east 2 acres, of a given lot, are all determinable with certainty. A different and considerably less simple problem exists where the lot is not rectangular or is not oriented N and S, or E and W. Consider the following cases:

A. How would you measure the west 50 feet of the lot at A in Figure 9-9.6A?

Obviously, there are several ways in which the measurement could be made and to eliminate all possibilities of misinterpretation, the description should be reworded so that it can be interpreted in only one way. Sections 9-9.6A1 through 9-9.6A4 illustrate the desirable language to cover various possible intentions of the parties.

1. The westerly 50 feet, when measured at right angles to “A” St. (see A1, Figure 9-9.6A).

2. The westerly 50 feet, when measured along the north and south lines (see A2, Figure 9-9.6A).

3. All that part of Lot, Block Addition, lying westerly of a line drawn from a point on the north line of said lot, 50 feet easterly of the northwest corner thereof, southerly to a point on the south line of said lot, 100 feet easterly of the southwest corner thereof (see A3, Figure 9-9.6A).

4. An easier way to describe the same parcel as in Section 9-9.6A3, would be as follows: All of Lot Block Addition, according to the plat thereof recorded in Vol. of Plats, Page , records of County, Washington, except the east 250 feet thereof (see A4, Figure 9-9.6A).
A. The Lot Prior to Subdivision

A1. Subdivided at Right Angles to a Street

A2. Subdivided by Measurement Along Lot Lines

A3. Subdivided by Joining Points on the N and S Lines

A4. Subdivided by Exception

Figure 9-9.6A
Possible Subdivisions of a Platted Lot (Example)
B. Generally, directions unless qualified or controlled by other words (such as "parallel with" or "along the section line") will be construed as meaning due North, East, etc. (2 Wn. 198, 135 Wn. 539).

C. A description calling for the "north half" is interpreted north half in area, not necessarily a line mid-way between the north and south lines (16 Wn. 39, 68 Wn. 351).

The description of Tract "A" in Figure 9-9.6C is as follows: "N 1/2 Lot 16." Therefore, Lot 16 is divided by a due East-West line so that the area of Tract "A" is equal to the area of Tract "B." Obviously, the distance "a" is less than the distance "b."

Even if the N and S boundaries were not parallel, the dividing line would be a due E and W line, creating two parcels equal in area.

The only exception to the above rule is where such language is used in connection with the government subdivision, then the rules for subdividing sections apply (see Section 9-9.3).
D. Where a lot is not oriented N and S, or nearly so, the possibility of confusion exists when referring to the lines and corners of the lot. In Figure 9-9.6D, it would be difficult to determine which corner is the “northwest corner” of the lot, or which line is the “North” line. Terminology which eliminates the difficulty is shown in Figure 9-9.6D.

![Diagram of a lot showing orientation of corners and lines.]

**Figure 9-9.6D**
Orientation of a Lot (Example)

E. Care must be taken in combining descriptions of fractions of lots with full lots to be certain that the resulting description is free of ambiguity. For instance, does “the W ½ of lot 7 and lot 8” mean all of lot 8 or only the “W ½”? All question of interpretation is removed by reciting the full lot first, as “All of Lot 8 and the W ½ of Lot 7,” if that is the desired intention.

F. If parts of two lots, together with a full lot are to be described, clarity can be assured by the following style:

The N ¼ of Lot 7, all of Lot 8 and the S ¼ of Lot 9.

**9-9.7 Streets, Roads, and Highways**

Generally, any description adjoining on a street, road, or highway, which is only an easement, carries by implication the underlying fee to the center of the street. This is not true where the right of way is held in fee. For many years, almost all state highways have been acquired in fee, and since June of 1909, streets acquired by condemnation by cities and towns could be acquired in fee and therefore properties adjoining such rights of way do not carry any underlying interest in the road. Practically, all streets dedicated to the public on recorded plats are considered to be mere easements, and the owner of an abutting lot also has the underlying fee to the adjacent half of the street (79 Wn. 455 and 137 Wn. 452).

Where a street has been vacated, a question arises as to whether the vacated portion adjoining will pass without specific mention thereof in the conveyance. Generally, this will be governed by whether or not the vacated portion is of sufficient size to be capable of separate use.

If the vacated land is a narrow adjacent strip, as where an 80-foot street is narrowed to 60 feet by the vacation of the outer 10 feet on each side, or where it is a narrow alley, a conveyance of the adjoining land after the vacation would carry the vacated lands automatically whether mentioned in the deed or not (52 Wn. 341, 167 Wn. 39).

However, if the vacated strip is capable of separate use, it must be described to indicate an intent of the grantor that he did not wish to retain title to the strip (74 Wn. 462, 137 Wn. 452).
A perimeter street in a plat dedicated prior to June 13, 1901, attaches entirely to the abutting lots, provided the plattor owned nothing beyond the limits of the area platted. The logic is obvious that owners outside the limits of the plat had no part in the dedication of the perimeter street, and when the easement to the public is lifted by the vacation proceedings, the original boundary line is restored to exactly where it was at the time of the vacation (54 Wn. 595).

The Act of 1901 purports to take the outer half of a perimeter street away from its rightful owner (i.e., the plattor or his successors) and give it to the abutting owner outside the limits of the original plat. This point has apparently not been before our courts, but it is very likely that the statute might be considered unconstitutional. Article I, Section 16, Amendment 9, provides that private property shall not be taken for private use.

In addition to the usual formal vacation proceedings, a platted street may become vacated under the nonuser statutes (Laws of 1889-90, Section 32, page 603, amended by Laws of 1909, Chapter 90, page 188) provided that all of the following conditions are met:

A. The plat must have been recorded on March 12, 1904, or earlier.

B. The streets dedicated thereon must have remained unopened for a period of not less than five years after platting and prior to March 12, 1909.

C. The plat must have been outside the limits of a corporate city at the time of platting and for the entire five-year period during which the streets remained unopened.

In simple cases, the vacation of a street causes the adjacent half of the street to attach to the abutting ownership between the side lines of the property projected to the center of the street. For complicated intersections, as with diagonal streets, the area which attaches to each lot becomes very controversial and may even result in some portions remaining with the original plattor, or even “no man’s land” (203 Wn. 331). The best language to use in a description which includes portions of vacated streets or alleys falling in this category is: “... together with that portion of vacated street attaching thereto by operation of law.”

An additional point of importance in right of way work, is that since June 9, 1949 (Laws of 1949, Chapter 14), a city or town may retain an easement for utilities within the vacated streets or alleys. This could take the form of reserving the right to continue the occupation and maintenance of existing utility facilities, or may even reserve the right to grant future easements and franchises within the area. Further, since June 12, 1975 (Laws of 1975, Chapter 22), counties may retain easement rights for the construction, repair, and maintenance of public utilities and services whenever a county road, or portion thereof, is vacated. The public utility must be authorized or physically located on the land being vacated prior to the time the county, by resolution, authorizes said land to be vacated. The legislative body is restricted from conveying such easement to any public utility, but may convey a franchise to a public utility.

Formal vacation of streets and roads outside the limits of cities is accomplished by order of the Board of County Commissioners (RCW 35.79). Within cities, it is accomplished by ordinance (RCW 36.87).

9-9.8 Title Problems

9-9.8.1 Overlaps and Gaps

From various causes, such as faulty conveyancing or surveying, we frequently find titles which overlap each other, or where a hiatus (gap) has been created between two ownerships. While the solution of this problem can be complex as between the parties, it is relatively simple to handle as far as acquisition of the highway right of way is concerned.

In the case of the overlap, particularly where the area involved is small and not of high value, the right of way deeds should be so drawn that the controversial strip is included in the deeds secured from all parties having an apparent interest. The matter of compensation can usually be resolved by payment of 50 percent of the value of the overlap area to each party (presuming only two parties have claims on the area).
In the event of a hiatus, some weight can be given to physical boundary markers (as fences, rock walls, etc.) which might show that the party on one side or the other of the gap is claiming possession. This is especially true where the boundary marker has been recognized as such and acquiesced to by the neighbor for a period of ten years or longer.

In the event that there are no physical boundary indications, or if the area is of high value, the best procedure is to include the strip in the deeds from the owners on either side (or take a separate quitclaim deed), as well as securing the joinder of the original owner who conveyed out the two parcels and created the hiatus. In all but the most simple cases, the District RESM (or his designee) refers the problem to the Title and Condemnation Program Manager for resolution prior to final negotiation.

9-9.8.2 Appurtenances

A deed not only conveys all of the lands embraced within the legal description, but also carries, without the need of specific mention, all the appurtenances and incidentals rightfully belonging to it, and which are essential to the full and perfect enjoyment of the property (29 Wn. 70, 121 Wn. 572).

It is quite commonly known that this includes buildings, fences, timber, wells, crops, etc., but there are many other interests and rights which will pass with the deed which are not so well known. Some of these are:

A. Appurtenant easements (120 Wn. 144).

B. The underlying title to adjoining streets, roads, and railroads (if they are easements and not fee).

C. Ditches (72 Wn. 547).

D. Vacated alley (52 Wn. 341).

E. After acquired title (if Statutory Warranty, or Bargain and Sale Deed, or if Quit Claim Deed specifically includes after-acquired title clause).

F. Title to a building lying partly outside the limits of the lands conveyed (30 Wn. 2nd 4).


H. Water rights (54 Wn. 2nd — )

9-9.9 Survey Line Descriptions

9-9.9.1 General

A. In a total acquisition, the only property descriptions on the instrument is the parcel description.

B. In a partial acquisition, the instrument includes both a description of the acquisition portion and the parcel description.

C. In the case of a partial acquisition for roadway purposes, the state normally employs a “survey line description” in which the portion to be acquired is described in its relation to the highway project engineering data “over and across” the parcel description. All call-outs of Highway Engineer’s Stations (HES) must be preceded by a proper survey line identification; e.g., LL, LR, A12. Example:

“... at a point opposite HES LR 250+00 on the LR line survey of ...”

D. Upon demand by a grantor having substantial real estate holdings (usually a corporate body), a metes and bounds description of the acquisition is drawn by the District RESM in coordination with the Title and Condemnation Program Manager. The District RESM initiates action to have the appropriate metes and bounds incorporated on the Right of Way Plan.
E. All engineering data upon which any acquisition description is based appears on the approved plan of the project (i.e., the Right of Way Plan or the Sundry Site Plan).

F. The sample descriptions cited in Section 9-9.13 are used as models for drafting of property descriptions for acquisition purposes.

9-9.9.2 Acquisition Portion

The following special rules apply to “survey line” acquisition descriptions:

A. The word “opposite” properly means, “at right angles to” when in reference to a determined point (HES) on an established line (survey line) whether the established line is straight or a curve. When measured “opposite” an established curved line, the measurement is along the radius of such curve.

B. The term “when measured at right angles to and/or radially from” is properly used when the distance measured is from an established line without reference to a point on the established line.

C. A line which is parallel with an established line follows all the sinuosities of the established line and remains the stated distance from the established line.

D. If that portion of a parcel which is to be acquired lies in a given direction from a described line, perpendiculars to the reference line drawn from the ends of the described line, must include all of the portion of the parcel which is to be acquired (see Figure 9-9.9.2D).

Although the point opposite HES 45 + 00 lies outside parcel 8-12345, the shaded area would not be included in the description. (See Section 9-9.131)

Figure 9-9.9.2D
Acquisition Portion (Partial Acquisition) (Example)
E. If that portion of a parcel which is to be acquired lies between two lines, lines drawn to connect the ends of the two described lines must lie beyond all of that portion of the parcel to be acquired (see Figure 9-9.9.2E).

Although the points opposite HES 300 + 00, HES 304 + 50, HES 310 + 80, and HES 312 + 00 are all outside parcel 8-12346, the shaded areas would not be included in the description if the “take lines” are limited to between HES 304+50 and 312+00 on the north side and between HES 300+00 and 310+80 on the south side. It is obvious that lines drawn between the respective termini fail to include all of the necessary take. The “take lines” in this case must extend from HES 300+00 to 312+00 on both sides. See Section 9-9.13J.

Figure 9-9.9.2E
Acquisition Portion (Partial Acquisition) (Example)

F. The ends of a strip which are contiguous to a right of way are closed by lines which are described as being perpendicular to the highway survey line (see Figures 9-9.13C and D), or by using a metes and bounds description.

G. In a metes and bounds description (see Figure 9-9.13K and L), the perimeter of a tract of land is described by:

1. Starting at a definitely known (i.e., monumented) point.

2. Stating bearings and distances of a line or lines from the monumented point to a point on the boundary of the tract (i.e., the “true point of beginning”).

3. Stating bearings and distances for each successive boundary line of the tract. The use of “more or less” following the distance will prevent overlaps or gaps but should not be used haphazardly. It is usually used with the last distance call to be sure of closure as in Figure 9-9.13L; it may be used elsewhere only when another element (monument fixes the point without regard to the actual distance (as in Figure 9-9.13K).

4. Returning (closing) at the “true point of beginning.”

H. When referring to a section corner or to a quarter corner, reference is made only to the section in which lies the point of beginning of the parcel to be described.

I. The first reference made in a description to a section includes the Township (and its North/South identification number) and Range (and its identification number East or West of the Willamette Meridian). Thereafter, reference is made only to “said section.”
J. Reference in a description to a right of way plan title is made at the first mention of any highway project. Viz.: "Beginning at a point on the "X" Line survey of SR No. (plan title in full)." Thereafter, reference may be made by stating "said highway" (see Section 9-5).

K. In the use of the word "said": No similar item can intervene between the item and references to it in the description. Thus, if two survey lines are involved in a description, all references to the "said survey line" which refer to the first survey line should precede any mention of the second survey line. If an intervention must occur, the next reference to the first survey line must repeat the identification of the first survey line. "Said (noun)" always refers to the last previous use of that noun and its descriptive modifiers.

L. Unnecessary wordiness is avoided. E.g., "To wit"; "thence run" or "thence running"; stating "said Township and Range" after each mention of a section; "distant" or "a distance of" (but see M, below); etc.

M. The words "a distance of" are used only to separate two sets of figures. E.g., "189+24 254.25 feet" should be written "189+24 a distance of 254.25 feet."

N. The following are always spelled out:
   1. The word "feet."
   2. Reference to subdivisions of a section (northwest quarter) and directions (northerly).

O. Symbols (′ for feet) or abbreviations (NW) (Nly) are avoided, except that bearings are shown as follows: North 1° 34′ 27″ East.

P. “Beginning” is preferred to “commencing” (archaic) and “according to plat” is preferable to “as per plat.”

Q. When describing strips of land as being certain widths on each side of a survey line, the term “on each side” is used only when the widths are the same. Do not use the term “on either side.”

R. If reference to survey line stationing appears more than once in a description, the following statement may be used at the first reference: “Highway Engineer’s Station (hereinafter referred to as HES).” Thereafter, the abbreviation “HES” may be used. When two lines are described as the boundaries of the acquisition description, they should both proceed in the same direction (preferably in the direction of increasing HES numbers).

S. A description copied from a tax statement or a tax receipt is not acceptable. Further, the Assessor’s tax lot number (or description) is not normally an acceptable description.

T. The term “Parcel A type description” refers to a method of acquisition description in which the acquisition portion is separate and distinct from the parcel portion of the description. The acquisition portion includes the phrase “all that portion of the following described Parcel A lying . ..”, and is followed by the whole parcel description as contained in the PC and identified in the instrument as “PARCEL A:.” The use of “A” is arbitrary and may be any other letter of the alphabet, but no letter is used more than once in any given instrument. (See Section 9-9.13 below for circumstances in which a Parcel A type description is appropriate.)

9-9.9.3 Parcel Description

A. In the case of a total acquisition, the legal description of the grantor’s property is given exactly as it appears in the title report; except that the Acquisition Agent is authorized to change all dimensional units (e.g., rods) to feet; and, with the approval of the District RESM may make any changes in the PC’s description which are necessary to achieve clarity or simplicity. The format for descriptions is given in Section 9-1.222D. If a vacated street or road is included, see Section 9-9.4.
B. In the case of a partial acquisition, either:

1. The parcel description is inserted as a Parcel “A” type of description following the description of the acquisition portion (the survey line description or a second tract description as in Figure 9-9.13L).

2. The parcel description is included within the acquisition description when the parcel description is very short and the acquisition description is relatively simple as in Figure 9-9.13E.

C. A Parcel “A” description too long for a preprinted form may be typed and appended as an “EXHIBIT” on a separate, 8½” x 11” sheet of white bond paper. In the space on the preprinted form in which such description would otherwise appear is inserted the reference, binding the exhibit to the instrument (see Section 9-17.4).

D. Following are those situations in which the Parcel “A” type of description is normally used:

1. The parcel is described by metes and bounds.

2. The parcel description contains an exception.

3. The parcel description is a complicated portion of a subdivision of a section or of a larger tract or lot. E.g.; “That portion of the south 200 feet of the north 350 feet of the west 147 feet of the east 177 feet of Tract 19 lying . . .”

4. The parcel lies in three or more 40-acre subdivisions of a section

E. There are often cases in which more than one taking is required from a single ownership and/or where more than one parcel is described in the PC, with takes required from more than one such parcel (see Figure 9-9.13G).

1. Multiple takings in a single instrument are identified as “Tract I,” “Tract II,” etc., and are used in the following situations:
   a. Takings which are separated from each other, although taken from a single PC parcel.
   b. Takings in which the acquisition portion of the description would be so complicated that greater clarity can be achieved by breaking it into two or more parts.

2. Multiple PC parcels are identified in “Parcel A type descriptions” as “Parcel A,” “Parcel B,” etc.

3. Examples:
   “Tract I: All that portion of the following described Parcel A lying . . .”
   “Tract II: All that portion of the following described Parcel A (B) lying . . .”

9-9.10 County Roads Acquired

Conveyances from the counties for all roads within a given highway project contain adaptations from the following property description:

“ . . . All County Road rights of way, together with all appurtenances thereto, located within . . .”

9-9.11 Exchange Agreement

The exact description used on the deed from the state may vary somewhat in detail from the description used in the Exchange Agreement (DOT Form 262-100). Care is exercised to provide an accurate description in the Exchange
Agreement based on conventional survey ties, on plats or on survey line ties and distances shown on the appropriate Project Plan.

9-9.12 Vacated Street or Road

If the PC or a court determination attaches a vacated street or road (or portion thereof) to the parcel description, include in the parcel description appropriate language from the PC to cover the vacation, or adapt the following:

"... together with that portion of vacated (name of street) attaching thereto by operation of law ..."

9-9.13 Sample Descriptions

The following examples are used to show type descriptions most frequently occurring.

A. Survey Line Strip — Varying Widths By Exception

When the major portion of a strip-type take is of constant width (same or different on each side), the strip is described throughout its entire length as being of that constant width, with minor differences shown as exceptions, Figure 9-9.13A. Compare with Figure 9-9.13B. The Figure 9-9.13A description can be written in many different forms, but none will be as concise as the one here given.

```
A strip of land 100 feet wide, being 50 feet wide on each side of the survey line of SR 164, Auburn to Enumclaw, as surveyed over and across the southwest quarter of the northwest quarter of Section 18, Township 20 North, Range 6 East, W.M.; EXCEPT that from Highway Engineer’s Station (hereinafter referred to as HES) 486+00 southeasterly to HES 488+00 said strip of land shall be 160 feet wide, being 80 feet wide on each side of said survey line; EXCEPT that from HES 488+00 southeasterly to HES 489+00 said strip of land shall be 140 feet wide, being 80 feet wide on the northeasterly side of said survey line and being 60 feet wide on the southwesterly side of said survey line; EXCEPT that from HES 489+00 southeasterly to the east line of said subdivision said strip of land shall be 120 feet wide, being 60 feet wide on each side of said survey line.
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Figure 9-9.13A
Survey Line Strip — Varying Widths by Exception (Example)
B. Survey Line Strip by Varying Widths

Where there is no major position of a strip-type description which is of a constant width, the widths are described in succession from one side of the ownership to the other as in Figure 9-9.13B.

A strip of land having widths as hereinafter set forth, on each side of the survey line of SR 9, Snohomish to Arlington, as surveyed over and across the southwest quarter of the northeast quarter and the southeast quarter of the northwest quarter of Section 12, Township 29 North, Range 5 East, W.M.:

From the southerly line of said southwest quarter of the northeast quarter northwesterly to Highway Engineer’s Station (hereinafter referred to as HES) 309+50 said strip shall be 160 feet wide, being 80 feet wide on each side of said survey line; from HES 309+50 northwesterly to HES 316+50 said strip shall be 180 feet wide, being 60 feet wide on the southwesterly side of said survey line and 120 feet wide on the northeasterly side of said survey line; and from HES 316+50 northwesterly to the northerly line of said southeast quarter of the northwest quarter said strip shall be all that portion of said subdivision lying northeasterly of a line drawn parallel with the 90 feet southwesterly from said survey line.

Figure 9-9.13B
Survey Line Strip by Varying Widths (Example)
C. Additional Strip — Uniform Width Figure

Required strips abutting upon an existing right of way line are described as being on the proper directional side of the existing right of way, and parallel with and contiguous to the existing project by full SR number and title, as in Figure 9-9.13C.

A strip of land 100 feet wide, being easterly of, parallel with and contiguous to, the existing easterly right of way line of SR 97, Olds to Zena, in the southwest quarter of the northeast quarter of Section 3, Township 23 North, Range 20 East, W.M., and extending from a line drawn northeasterly at right angles to the survey line of said highway from Highway Engineer’s Station (hereinafter referred to as HES) 1023+75 northerly to a line drawn northeasterly at right angles to said survey line from HES 1026+50.

Figure 9-9.13C
Additonal Strip — Uniform Width (Example)
D. Additional Strip — Varying Widths

Figure 9-9.13D illustrates a more complicated additional strip. Note the relationship of this description to that contained in Figure 9-9.13A.

A strip of land 40 feet wide, being northwesterly of, parallel with and contiguous to the existing northwesterly right of line of SR 20, Birdsviow Vicinity, in the northwest quarter of the northeast quarter of Section 1, Township 35 North, Range 7 East, W.M., and extending from a line drawn northwesterly at right angles to the survey line of said highway from Highway Engineer’s Station (hereinafter referred to as HES) 674+00, southwesterly to a line drawn northwesterly radially from HES 667+00 on said survey line: EXCEPT that from a line drawn northwesterly at right angles to said survey line from HES 673+00 southwesterly to a line drawn northwesterly radially from HES 670+00 on said survey line said strip shall be 80 feet wide.

Figure 9-9.13D
Additonal Strip — Varying Widths (Example)
E. Straight Portion Off Corner or Side of Lot and Block Site

Where an ownership lies entirely to one side of the alignment, all of the parcel is taken that lies within the alignment by merely using the proper direction from the right of way line that traverses the parcel. Figure 9-9.13E.

(Note: The ownership lines show this ownership to include Lot 7 and a small portion of Lot 8. Since there is no take from the rest of Lot 8, no harm is done in specifying Lot 8 as a whole.)

All that portion of Lots 7 and 8, Block 14, of the Jones Addition to the city of Auburn lying northeasterly of a line drawn parallel with and 100 feet southwesterly from the survey line of SR 164, Auburn to Enumclaw.

Figure 9-9.13E
Straight Portion off Corner or Side of Lot and Block Site (Example)
F. Strip Out of Parcel “A”

The ownership in Figure 9-9.13F appears to be a metes and bounds description or to contain an exception; hence it is stated following the acquisition portion of the description. Note that the description appears to "re-take" the existing right of way, but such right of way is probably an exception in the PC parcel description.

All that portion of the hereinafter described Parcel “A” lying within a strip of land 150 feet wide, being 75 feet wide on each side of the survey line of SR 164, Auburn to Enumclaw, and extending from the west line of said Parcel “A” easterly to a line drawn northerly and southerly at right angles to the survey line of said highway through Highway Engineer’s Station 410+10.

Parcel “A”: (Description of parcel)

Figure 9-9.13F
Strip Out of Parcel “A” (Example)
G. Two Survey Lines — Tract I and II Out of Parcel “A”

When a take involves two survey lines it is often convenient to describe two separate takes — one based on one survey line, and the second based on the other survey line. In Figure 9-9.13G, note that the Tract II description excludes any portion lying within Tract I even though the basic strip extends to the survey line used in Tract I.

Tract I:
All that portion of the hereinafter described Parcel “A” lying within a strip of land 220 feet wide, being 100 feet wide, when measured radially, on the northwesterly side of the survey line of SR 5, Ferndale to Custer, and 120 feet wide, when measured radially, on the southeasterly side of said survey line.

Tract II:
All that portion of the hereinafter described Parcel “A” lying within a strip of land 200 feet wide, being 100 feet wide, when measured radially, on each side of the WE Line survey line of said highway, and lying northwesterly of the above described Tract I.

Parcel “A”: (Description of parcel)
The access clause would be a composite of the clauses stated in Sections 9-10.1.2 (basic) and 9-10.1.5.1 (reservation by highway connection to the WB Line northwesterly of HES WE 2+00), plus one of the clauses stated in Section 10-10.6 depending on what is existing.

Figure 9-9.13G
Two Survey Lines — Tract I and II Out of Parcel “A” (Example)
H. Two Survey Lines — Line Description Off Corner or Side of Parcel “A”

Two survey lines do not necessarily make a two tract description. In Figure 9-9.13H, the relationship of the two survey lines to the take makes a two tract description unnecessary, indeed difficult, because the last segment of the take-line description depends on stationing on the second survey line. Note that the distance call of that same segment is merely enough to get outside the ownership (without apparent cover of the easterly boundary because the take is described in terms of both northerly and easterly of the take-line).

All that portion of the hereinafter described Parcel “A” lying northerly and easterly of a line beginning at a point opposite Highway Engineer’s Station (hereinafter referred to as HES) 354+00 on the survey line of SR 90, Factoria to Eastgate, and 100 feet southerly therefrom; thence easterly to a point opposite HES 358+25 on said survey line and 160 feet southerly therefrom; thence southeasterly to a point opposite HES J 15+00 on the J Line survey of said highway and 60 feet westerly therefrom, thence southerly, parallel with said survey line, 100 feet to a point and the end of this line description.

Parcel “A”: (Description of parcel)

The access clause would involve the same clauses as set forth in Figure 9-9.13G.

Figure 9-9.13H
Two Survey Lines — Line Description off Corner or Side of Parcel “A” (Example)
I. Line Description Off Corner or Side of Parcel "A"

Figure 9-9.13I illustrates the same principles as Figure 9-9.13E except that the take-line is not a straight line and is based on the frontage road survey line instead of a mainline survey line. Note that this description cannot begin at a point opposite HES 45+00 (on the FR 8 survey line) for a line projected northwesterly through that point would miss some of the take southwest of Little Creek.

All that portion of the hereinafter described Parcel "A" lying northwesterly of a line beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 42+00 on the SR 5, Pierce County Line to SR 526 Interchange, Frontage Road No. 8 survey line and 75 feet southeasterly therefrom; thence northeasterly to a point opposite HES 45+00 on said survey line and 250 feet southeasterly therefrom; thence northeasterly to a point opposite HES 48+00 on said survey line and 200 feet southeasterly therefrom; thence northerly to a point opposite HES 50+00 on said survey line and 75 feet southeasterly therefrom and the end of this line description.

Parcel "A": (Description of parcel)

The access clause would be a compound of the clauses stated in Section 9-10.1.2 (basic) and 9-10.1.5.2.1 (reservation to frontage road) plus one of the clauses stated in Section 9-10.6 depending on what is existing.

Figure 9-9.13I
Line Description off Corner or Side of Parcel "A" (Example)
J. Strip Between Line 1 and 2 Out of Parcel "A"

Figure 9-9.13J is further illustration of the necessity of extending take-lines far enough to include all of the required property. Note that a line from HES 310+80 and 365 feet southerly therefrom to HES 312+80 and 375 feet northerly therefrom fails to cover the extreme southeasterly corner of the ownership. This is avoided by extending Line 1 some 200 feet southerly.

All that portion of the hereinafter described Parcel "A" lying between the following described Lines 1 and 2:

Line 1: Beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 300+00 on the survey line of SR 90, Moses Lake East and 225 feet southerly therefrom; thence easterly parallel with said survey line to a point opposite HES 304+35; thence southeasterly to a point opposite HES 310+80 on said survey line and 365 feet southerly therefrom; thence South 30° 10' East 200 feet to a point and the end of this line description.

Line 2: Beginning a point opposite HES 300+00 on said survey line and 150 feet northerly therefrom; thence easterly parallel with said survey line to a point opposite HES 304+50 on said survey line; thence easterly to a point opposite HES 308+85 on said survey line and 205 feet northerly therefrom; thence northeasterly to a point opposite HES 312+80 on said survey line and 375 feet northerly therefrom and the end of this line description.

Parcel "A": (Description of parcel)

The access clause would be similar to that shown in Figure 9-9.13I.

Figure 9-9.13J
Strip Between Line 1 and Line 2 Out of Parcel "A" (Example)
K. Metes and Bounds Site

Figure 9-9.13K illustrates a total take by a metes and bounds description. Note that the phrase "more or less" follows three of the distance calls but each are terminated by a monument.

The portion of Government Lot 4, Section 1, Township 23 North, Range 4 East, W.M., described as follows:

Beginning at a point on the north line of said Section, North 89° 30' East 300.0 feet from the northwest corner thereof; thence South 425.0 feet to the true point of beginning; thence North 81° 17' East 208.19 feet; thence South 11° 35' East 380.11 feet, more or less, to the northerly margin of the John Doe County Road; thence North 74° 15' West along said road margin 228.77 feet, more or less, to a point which bears South 11° 35' East from the true point of beginning; thence North 11° 35' West 289.34 feet, more or less, to the true point of beginning.

Figure 9-9.13K
Metes and Bounds Site (Example)
L. Parcel "B" Metes and Bounds Site Out of Parcel "A"

Figure 9-9.13L illustrates an unusual use of the "Parcel B" phraseology. Here it is used to describe the take boundaries, whereas Parcel A is the ownership. This is a convenient method of description when there are no ties at the boundary intersections. Note that the phrase "more or less" follows only the final distance call, thus insuring closure of the description whether the actual distance is 275 or 305 feet.

All that portion of Parcel "A" which lies within Parcel "B," each as hereinafter described:

Parcel "A": (Description of parcel)

Parcel "B": That portion of the northwest quarter of the northeast quarter of Section 9, Township 12 North, Range 1 East, W.M., described as follows:

Beginning at the north quarter corner of said Section; thence South 0° 10' East along the west line of said subdivision 170 feet; thence South 8° 30' East parallel with the north line of said Section 162 feet to the true point of beginning; thence South 8° 30' East 400 feet; thence South 0° 30' West 225 feet; thence North 89° 30' West 194 feet; thence northwesterly 298 feet, more or less, to the true point of beginning.

Figure 9-9.13L
Parcel "B" Metes and Bounds Site Out of Parcel "A" (Example)
9-10  Miscellaneous Clauses

9-10.1  Limited Access

9-10.1.1  Access Rights Only Conveyances

The appropriate language is included in the conveyance clause on the preprinted forms in which “Access Rights Only” are being conveyed. If there are exceptions to full control of access, the appropriate exception clause is also inserted as explained in Section 9-10.1.5 et seq.

9-10.1.2  Land and Access Rights Conveyances

The access control clause follows the property description clause in a conveyance of a partial acquisition, adapting the following:

“As also, the grantors herein convey and grant to the state of Washington all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) to, from and between (full, official name of project) and the remainder of said (tract, lot or parcel “A”).”

Note: If an access reservation is provided, continue with the appropriate clause in Section 9-10.1.5 et seq.

9-10.1.3  Release of Lessee’s Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following:

“As also, said lessee hereby releases from the effect of said lease, all rights of ingress and egress (etc., as in Section 9-10.1.2) . . . and the remainder of the real property described in said (lease) (Parcel A).”

9-10.1.4  Release of Mortgagee’s or Beneficiary’s (Deed of Trust) Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following:

“As also, (mortgage/trustee) hereby releases from the effect of said (mortgage/deed of trust) all rights of ingress and egress (etc., as in Section 9-10.1.2) and the remainder of the real property described in said (mortgage/deed of trust).”

9-10.1.5  Access Reservation

If the access control is modified by any “Access Note” or other feature appearing on the approved plan, such feature is specified in the instrument of conveyance or release by adding to the “Access Control Clause” (see Section 9-10.1.2 et seq.) an “Access Reservation Clause” adapted from one of the following clauses.

Note: The language of such clause in a partial release of lease, substitutes the words “said lessee” in place of the words “grantor” or “grantor herein.” Likewise, the word “mortgagee” is substituted in a partial release of mortgage and the word “trustee” is substituted in a partial reconveyance of a deed of trust.

9-10.1.5.1  By Highway Connection

For access specifically permitted by way of a highway connecting with an access controlled facility:

“. . . EXCEPT that the (grantors, lessees, mortgagees, trustee(s) herein reserve(s) for (himself) (his heirs) (its) successors or assigns, the right of reasonable access to the “_________” Line connection of said Highway (_________erly of HES _________ + _________ said “_________” Line),” Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.
9-10.1.5.2 By Frontage Service Road

A. State to Construct — Now

"... EXCEPT that as a part of the consideration of this transaction, the state agrees to construct on the right of way a frontage service road along the (easterly) side of said highway, and to which frontage service road only, the grantors, their heirs, successors or assigns reserve a right of reasonable access." Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.

B. State to Construct — Future

"... EXCEPT that as a part of the consideration for this transaction, the state agrees to construct on its right of way at a future date, a FRONTAGE SERVICE ROAD along the (easterly) side of said highway, it being understood and agreed that the grantors herein, their heirs, successors and assigns reserve a temporary right of reasonable access ..." Continue with B1 or B2 below as required.

1. Direct Access to Highway. "... directly to said highway until such time as said FRONTAGE SERVICE ROAD is actually constructed at which time all such temporary rights of direct access to the highway shall cease and the rights shall then be limited to the right of reasonable access to the FRONTAGE SERVICE ROAD." (Insert description of location and/or use restrictions of temporary direct access as appropriate.) Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.06 as appropriate.

2. Other Temporary Access. When temporary access other than via a direct route to the highway is to be provided, such as allowing temporary access only to a specific other public road that is available or can be made available, insert the details as to the type, location, and any restriction of the access as stated in the design specifications. Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.

9-10.1.5.3 By Road Approach

A. Type "A" (Residential)

"... EXCEPT that the state shall construct on its right of way an off and ON APPROACH, not to exceed 14 feet in width, for the sole purpose of serving a single family residence, on the easterly side, at or near Highway Engineer’s Station (36+00), as shown on Sheet _______ of _________ Sheets of the hereinafter mentioned map of definite location, and to which off and ON APPROACH only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

B. Type "B" (Farm)

1. One Side

"... EXCEPT that the state shall construct on its right of way an off and ON APPROACH, not to exceed 20 feet in width, for those uses necessary to the normal operation of a farm but not for retail marketing, on the (easterly) side, at or near Highway Engineer’s Station (36+00), as shown on Sheet _______ of _________ Sheets of the hereinafter mentioned map of definite location, and to which off and ON APPROACH, only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

2. Each Side

"... EXCEPT that the state shall construct on its right of way an off and ON APPROACH, not to exceed 20 feet in width for those uses necessary to the normal operation of a farm but not for retail marketing, on each side of said highway, at or near Highway Engineer’s Station (36+20), as shown on
Multiple Approaches — Controlled Movement

Used if the grantor has reserved road approaches on each side and traffic may not cross or make left-turning movements at grade.

"... The direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

Temporary Grade Crossing

Used if the grantor has reserved road approaches on each side without restriction on crossing or left-turning movements at grade.

"... It is understood and agreed that the state may temporarily permit the crossing of said highway at grade and free turning movements from each of said approaches. However, whenever necessary in the opinion of the Department of Transportation, all grade crossings shall cease and terminate and the direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

C. Type "C" (Special Use)

Used only on the instrument with the parties who are to have the right of use of such approach.

1. State to Construct

"... EXCEPT that the state shall construct on its right of way an off and ON APPROACH, not to exceed (_______) feet in width, for a gated approach to the grantors' well, on the (easterly) side, (northbound) only, at or near Highway Engineer's Station (_______), as shown on Sheet (_______) of (_______) Sheets of the hereinafter mentioned map of definite location, and to which off and ON APPROACH only, the grantors, their heirs, successors, or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

2. Owner to Construct

"... EXCEPT that the state agrees to permit the construction on its right of way of one off and ON APPROACH to the remainder of said Parcel "A", not to exceed (_______) feet in width, for the uses necessary to the normal operation of a farm (or whatever use is specified by the highway plan), at a point on the (easterly) side of said highway, between Highway Engineer's Station (_______) and Highway Engineer's Station (_______), to be mutually agreed upon by the undersigned grantors, their heirs, successors or assigns and the Department of Transportation; and to which off and ON APPROACH only, the grantors, their heirs, successors or assigns reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.1.5.3.2.

D. Type "D" (Commercial Single 50 Foot Width)

Used only where Modified Access Control has been established, and further subject to provisions of WAC 252-020-090.

"... EXCEPT that the state shall construct on its right of way an off and ON Approach not to exceed 50 feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designed highway stations as shown on Sheet (_______) of
Sheets of the hereinafter mentioned map of definite location, and to which off and ON APPROACH only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Section 9-10.1.5.3.1 and 9-10.7.

E. Type "E" (Commercial Double 30 Foot Width)

". . . EXCEPT that the state shall construct on its right of way a separated off and ON APPROACH with each opening not exceeding 30' in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations as shown on Sheet ________ of ________ Sheets of the hereinafter mentioned map of definite location and to which off and ON APPROACH only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Section 9-10.1.5.3.1 and 9-10.7.

9-10.1.5.3.1 Maintenance of Road Approach

". . . which APPROACH shall be maintained between the right of way line and the shoulder line of said (highway, frontage service road of said highway, highway and/or frontage service road, " Line of said highway) by the grantors, their heirs, successors or assigns."

9-10.1.5.3.2 Construction Costs and Permits — Owner to Construct Approach

"Obtaining required permits from responsible agencies and the complete construction (and maintenance) costs of said APPROACH shall be the sole responsibility of the grantors, their heirs, successors or assigns."

9-10.1.5.4 By Highway Structure

Used when the approved Right of Way Plan contains an "Access Note" which permits access under or over the travelled way by use of a highway structure — adapt the text of the "Access Note":

". . . EXCEPT that traffic movement will be permitted under the highway structures at the (insert name of bridge, etc.) between HES ________ + ________ and HES ________ + ________ as restricted clearances will permit." If appropriate, continue with the text in Sections 9-10.1.5.3.1 and 9-10.1.5.3.2.

9-10.2 Specific Details

Used in each instrument (principal and supportive) involving either a partial acquisition or a reference to a recorded right of way plan. May also be used on any instrument as a courtesy.

9-10.2.1 One Type of Acquisition

The cited language is used in instruments relating to conveyances of only one type; e.g., fee, easement, permit, lease, etc.

"The lands herein described contain an area of (2.5 acres, square feet) more or less, the specific details concerning all of which are to be found in that certain map of definite location now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval (month, day, year), (revised) (month, day, year)."

9-10.2.2 Multiple Types of Acquisition

The cited language is used in instruments relating to conveyances of combinations of fee, easement, permit, etc.

"The lands herein described in fee contain an area of (________ acres, ________ square feet), more or less, and herein described in (easement, permit) contain an area of (________ acres, ________ square feet) more or less, the specific details concerning all of which . . . (see Section 9-10.2.1) . . . "

Change 25
September 1991

9-56
Right of Way Manual
M 26-01
9-10.3 Payment Authorization

Used in instuments wherein there are multiple signatories and such parties agree to the state making payment to one of their members.

9-10.3.1 By Grantors to One Grantor

"The undersigned grantors hereby authorize and instruct the state of Washington to pay the entire consideration to __________, and direct that the state voucher in payment thereof shall be executed only by said __________."

9-10.3.2 By Mortgagee to Mortgagor/Beneficiary to Grantor

Used on the (Partial Release of Mortgage/Request for Partial Reconveyance of Deed of Trust) to authorize payment to the grantor.

"The undersigned herein consents to the payment of any consideration for the lands being herein released directly to the (mortgagor/grantor), his heirs, successors or assigns."

9-10.4 Improvement Straddling Right of Way Line

Used in each case in which improvements straddle the right of way line. All improvements within the acquisition area are automatically acquired with the land as "real property." Owners (or others) do not "retain" or purchase improvements to be removed or salvaged, but may purchase them as personal property by purchasing salvage rights. Salvage rights (sales of personality) are transacted and documented in a separate Fixtures and Improvements Agreement (DOT Form 263-005).

"It is understood and agreed that the improvement(s) located partially upon the lands herein conveyed and partially upon the grantor's remaining lands is (are) conveyed herein in its (their) entirety to the state of Washington, its agents or assigns." Continue with text in Section 9-10.7.

9-10.5 Timber (Crop) Removal

Use if timber (crops) are to be removed by the grantor:

"The grantor herein reserves the right to remove (all hay, the sugar beet crop, all standing or down timber) located (insert Right of Way centerline or other legal description of the area where timber/crop removal is permitted) at any time until (insert exact date); however, all (timber, crops) yet remaining on said lands after said date shall become the property of the state of Washington and all rights of the grantor to said (timber, crops) shall then cease and terminate."

9-10.6 Road Approaches — No Access Control

9-10.6.1 State to Reconstruct Existing Approach

"It is understood and agreed that the state of Washington will reconstruct the existing road approach on the (easterly) side of said highway at or near Highway Engineer’s Station (__________)." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

9-10.6.2 State to Replace Existing Approach at New Location

"It is understood and agreed that the state of Washington will remove the existing road approach located on the (easterly) side of said highway at or near Highway Engineer’s Station (__________) and will reconstruct same on the (easterly) side of said highway at or near Highway Engineer’s Station (__________)." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.
9-10.6.3 State to Construct New Approach

"It is understood and agreed that the state of Washington will construct a road approach on the (easterly) side of said highway, at or near Highway Engineer’s Station (__________)." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

9-10.7 Construction Item

If the instrument contains a clause requiring or potentially obligating the state to perform any nature of construction or labor on or adjacent to the grantor's remaining land, the following is inserted as part of said clause in the grantor's instrument only:

"The grantor herein further grants to the state of Washington, or its agents, the right to enter upon the grantor's remaining lands where necessary to (construct said approach, remove said improvement, remove said crop, remove said timber, etc.)."

9-10.8 Occupancy Clauses

9-10.8.1 General

In the absence of agreement otherwise, occupancy of unimproved real property will occur upon payment being made available to the grantor(s). No clause is required.

9-10.8.2 Early Occupancy

If early occupancy is required, one of the following clauses will be used.

A. "The undersigned hereby agree(s) to surrender occupancy of the lands and/or rights herein conveyed, on the date of acceptance of this instrument by the state."

In rare instances it may be necessary to gain immediate occupancy. In those cases the following may be used:

B. "The undersigned hereby agree(s) to surrender immediate occupancy of the lands and/or rights herein conveyed."

9-10.9 Reserved

9-10.10 Release of Damages

The following are examples of clauses which are to be inserted between the words:

"... by reason of" and the words: "due to the..." on the Release of Damages (DOT Form 262-027) to identify the specific damages for which the state of Washington is making a settlement.

Note: Since these clauses are inserted in the middle of a sentence, the clauses do not require capitalization or final punctuation.

9-10.10.1 Fencing

The following clause releases the state from the obligation to erect and maintain fencing:

"... its obligation to erect and maintain fencing along the right of way line contiguous to the hereinafter described property..."
9-10.10.2 Water Systems

The following clauses release the state from its obligations under a Well Agreement (DOT Form 262-025):

“... the loss of an existing water system and the construction of a replacement water system ...”

Also insert the following clause before the Delivery Clause (see Section 9-12):

“The owners of record of the herein above described lands, for themselves, their heirs, successors and assigns, hereby release the state of Washington from all responsibility and obligation imposed or implied by that certain Well Agreement __________, between the parties hereto, and hereby declare and acknowledge said Agreement to have been fulfilled and terminated.”

9-10.11 Mineral Rights Reservation

Used in some instruments of conveyance to the state (deeds), and in some instruments releasing mineral rights.

“It is understood and agreed that all mineral, coal, oil, ores and gases below the surface of the lands conveyed by this instrument and hereinafore described, are hereby reserved unto the grantees, their successors and assigns; EXCEPT, however, that in the exploration, development, excavation, mining or removing of same, the surface of said lands shall not be occupied or used, the exercise of said rights shall not injure or damage in any manner the highway or highways to be built thereon, increase the cost of maintenance thereof, or interfere with the primary use of said lands and rights of way by the state of Washington, its successors or assigns for road, street, highway or other purposes, or franchises granted across, along, or beneath the surface of said highways, nor shall the grantees, their successors or assigns, do any exploration, development, excavation or mining beneath the surface of the lands hereinabove conveyed within a vertical depth of 500 feet below said surface until the said grantees, their successors or assigns have a plan for such exploration, development, excavation or mining approved by the Secretary of Transportation of the state of Washington, or his successors and assigns, determining that such plan will not be injurious to the primary use of the surface.”

9-10.12 Slope Easement, Termination Of

Used to indicate the method of termination of a slope easement. This clause may be used only if the slope easement does not include reservation of sidewalk areas, utility rights of way, etc.

“It is understood and agreed that, in the event the grantor, his heirs, or assigns, shall excavate and/or place an embankment upon the area covered by this slope easement to the level of the grade of the above-mentioned highway abutting thereon, all rights of the grantee herein shall cease and terminate.”

9-10.13 Easement for Transfer

Used only when the easement is to be transferred to another party; e.g., a slope easement for a frontage service road which is to be relinquished to the county. “It being understood and agreed that, upon completion of construction, the easement rights granted herein are to be transferred to __________ by an appropriate instrument to be placed of record and that thereafter the rights of the state shall cease and terminate.”

9-10.14 Reversion

Used only upon demand by major land owners maintaining substantial real property holdings that traditionally have conveyed only easements, provided that the acquisition compensation reflects the reversion right, and only with prior approval of DRES.
9-10.14.1 Reversion Clause

Upon abandonment of the lands conveyed herein, all of the state’s right, title and interest in and to said lands shall revert to the grantors, their heirs, successors, or assigns; subject to any permits or franchises for public or private utilities.

9-10.15 Right of First Refusal

Used only upon demand by grantor(s) with prior approval of the DRES.

9-10.15.1 First Refusal Clause

Upon determination by WSDOT that all or any portion of the lands herein conveyed are surplus to the needs of the state the grantor(s), (his, her, their) heirs, successors, or assigns shall be offered the first right to acquire said land at its then appraised value.

9-11 Reserved

9-12 Delivery Clause

The following delivery clause is entered in each instrument that is to be accepted and approved, just above the Instrument Date and the Signatures:

“It is understood and agreed that the delivery of this (deed, etc.) is hereby tendered and that the terms and obligations hereof shall not become binding upon the state of Washington unless and until accepted and approved hereon in writing for the state of Washington, Department of Transportation, by its Secretary or his duly authorized representative."

9-13 Instrument Date

The Instrument Date is normally the date the instrument is signed by the (last) grantor(s). The following text appears above the grantor(s) signature(s): Dated this ________ day of ________.”
9-14 Execution

9-14.1 General

A. Each person appearing as or representing the grantor is requested to sign the instrument in his own hand, spelling out his name(s) and/or initial(s), as applicable, exactly as the name appears of record. The desired form or appearance for the signature is predetermined and is typewritten under the appropriate signature line before offering the instrument to the signatory for execution.

B. The act of signing may be done before the qualified officer who is to certify an acknowledgment (see Section 9-15). The act of signing may be done elsewhere, but each person signing an instrument must personally appear before said qualified officer and acknowledge his own signature.

C. Additional pages are appended (see Section 9-1.2.2.1B) or the custom instrument is continued (see Section 9-1.2.2.2) if necessary to provide space for all signatories.

9-14.2 Individuals

9-14.2.1 Personally

Where individuals are executing for themselves, the interest held or the relationships between such signatories is not stated at the signature blank.

9-14.2.2 Signature by Mark

A witness to a signature is desirable in the case of a sane person who, due to illiteracy, old age, or incapacitating illness, can sign only by using a mark. There is no legal requirement that a signature by mark be witnessed, but the use of witnesses offers great protection to the state because of the agency relationship of the Acquisition Agent, who frequently also acts as the Notary Public.

A. The signatory makes his mark before two witnesses, assisted if necessary by steadying the hand and pen in position. A witness must be capable of signing his own name.

B. Any friends, relatives, doctors, nurses, business acquaintances, or other competent persons who know the signatory using his mark may act as witnesses. The Acquisition Agent or other parties in interest may not act as witnesses. Every effort should be made to provide witnesses to a signature by mark, or, in the alternative, to secure the services of a Notary Public who is not an employee of the state.

C. A signatory who is not literate in the English language should have his signature witnessed and at least one of the witnesses should be able to act as an interpreter, unless the agent is himself literate in the language of the signatory.

D. The witnesses sign the instrument as "witness" using a format similar to that in Figure 9-14.2.2.

```
S/ ____________________________  His __________ Mark __________
Richard Roe, Witness

S/ ____________________________  John Doe
Jack Smith, Witness
```

Figure 9-14.2.2
Signature by Mark with Witnesses (Example)
9-14.2.3 Fiduciary

A person executing an instrument in the place of or on behalf of the party in interest does so, identifying his official and/or legal capacity at the signature blank on the instrument (see Figure 9-14.2.3). The language for identifying the signatory agrees with the language of the party clause.

<table>
<thead>
<tr>
<th>Execution Only as a Fiduciary</th>
<th>Execution, Individually and as a Fiduciary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>S/ John Doe (written by the attorney in fact)</strong></td>
<td><strong>S/ John Doe (written by the attorney in fact)</strong></td>
</tr>
<tr>
<td><strong>By:</strong> Jane Doe, as his attorney in fact</td>
<td><strong>By:</strong> Jane Doe, as his attorney in fact</td>
</tr>
<tr>
<td><strong>Richard Roe, as trustee under the will of Joe Doe, deceased</strong></td>
<td><strong>Richard Roe</strong></td>
</tr>
<tr>
<td><strong>Richard Roe, as trustee for John Doe</strong></td>
<td><strong>Richard Roe</strong></td>
</tr>
<tr>
<td><strong>Richard Roe, as (Executor/Personal Representative) for the estate of John Doe, deceased</strong></td>
<td><strong>Richard Roe</strong></td>
</tr>
<tr>
<td><strong>Jane Doe, as guardian of the estate of John Doe Jr., a minor</strong></td>
<td><strong>Jane Doe</strong></td>
</tr>
</tbody>
</table>

**Figure 9-14.2.3**
Execution By Fiduciaries (Example)
9-14.3 Corporations

9-14.3.1 Private Corporations

Ordinarily, the corporation's president and secretary are the officers who can execute conveyances for the corporation. Their names and titles are typed beneath their signatures (see Figure 9-14.3.1). An instrument from a private corporation may be accompanied by a resolution under certain conditions.

<table>
<thead>
<tr>
<th>ABLE BAKER CHARLIE COMPANY, INC.</th>
</tr>
</thead>
<tbody>
<tr>
<td>By: ____________________________</td>
</tr>
<tr>
<td>John J. Doe, President</td>
</tr>
<tr>
<td>By: ____________________________</td>
</tr>
<tr>
<td>J. Paul Smith Jr., Secretary</td>
</tr>
</tbody>
</table>

Figure 9-14.3.1
Corporate Signature Block (Example)

9-14.3.2 Corporate Seal

Although it is not necessary to impress a corporate seal on an instrument, private corporations (that have seals) and governmental agencies may elect to do so.

9-14.3.3 Local Public Bodies

Examples of signature blocks for local public bodies are given in Figure 9-14.3.3. An instrument from a local public body is accompanied by a Resolution.

9-14.4 Partnerships

A. If the PC shows title held in name of firm which proves to be a partnership, modify corporate form (Figure 9-14.3.1) to show firm name and identity of signers as "Partner" if a general partner, or "Limited Partner" if such is the proveable fact.

B. If the PC shows title held by individuals, take signatures as prescribed in 9-14.1.
<table>
<thead>
<tr>
<th>Counties*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Commissioner System:</td>
</tr>
<tr>
<td>(SEAL)</td>
</tr>
<tr>
<td>Attest:</td>
</tr>
<tr>
<td>County Auditor and Clerk of</td>
</tr>
<tr>
<td>the Board of County</td>
</tr>
<tr>
<td>Commissioners</td>
</tr>
<tr>
<td>John J. Doe, Chairman</td>
</tr>
<tr>
<td>Mary E. Smith, Commissioner</td>
</tr>
<tr>
<td>James J. Jones, Jr., Commissioner</td>
</tr>
<tr>
<td>2. Executive — Council System:</td>
</tr>
<tr>
<td>(SEAL)</td>
</tr>
<tr>
<td>Attest:</td>
</tr>
<tr>
<td>Director of Records and</td>
</tr>
<tr>
<td>Elections</td>
</tr>
<tr>
<td>John J. Doe, County Executive</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cities*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mayor — Council (Commissioner) System:</td>
</tr>
<tr>
<td>(SEAL)</td>
</tr>
<tr>
<td>Attest:</td>
</tr>
<tr>
<td>City Clerk</td>
</tr>
<tr>
<td>John J. Doe, Mayor</td>
</tr>
<tr>
<td>Mary E. Smith, Councilman (Commissioner)</td>
</tr>
<tr>
<td>Paul P. Peters, Councilman (Commissioner)</td>
</tr>
<tr>
<td>2. Manager — Council System:</td>
</tr>
<tr>
<td>(SEAL)</td>
</tr>
<tr>
<td>Attest:</td>
</tr>
<tr>
<td>City Clerk</td>
</tr>
<tr>
<td>John J. Doe, City Manager</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Political Subdivisions*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example: A School District:</td>
</tr>
<tr>
<td>(SEAL)</td>
</tr>
<tr>
<td>Attest:</td>
</tr>
<tr>
<td>Clerk of the Board of Directors of School District No. of County, Washington</td>
</tr>
<tr>
<td>John J. Doe, Chairman</td>
</tr>
<tr>
<td>Mary E. Smith,</td>
</tr>
<tr>
<td>James J. Jones, Jr.</td>
</tr>
</tbody>
</table>

9-14.3.3 Signature Blocks for Local Public Bodies (Examples)
9-15 Acknowledgment

9-15.1 General

A. To render an instrument recordable and to permit its entry as evidence in a court of law without witnesses, a person signing an instrument must acknowledge before a qualified officer that the signature on the instrument is his signature and that he signed the instrument as his free and voluntary act and deed. The signature of the Governor of the state of Washington requires an attest by the Secretary of State.

B. If the custom instrument (see Section 9-1.2.2.2) is continued, pages are appended as necessary (see Section 9-1.2.2.1B) to provide an acknowledgment for all signatories.

C. A witness is not a party in interest and his signature is not acknowledged.

D. A single acknowledgment may be used by the official for all interested parties who acknowledge their signature on an instrument on the same date, provided that the same acknowledgment language is otherwise applicable.

9-15.2 Rules

A. A person acknowledging that a signature is his own, must appear before the qualified officer certifying to the fact and must be known by that officer, but the actual signing need not be in the presence of the certifying officer.

B. The date of the acknowledgment must be the same as or later than the date of the instrument.

C. The acknowledgment must state that the person who signed an instrument did so as his free and voluntary act and deed.

D. The acknowledgment for a corporate grantor must state that the officers of the corporation who signed an instrument were authorized to do so and that the seal, if affixed to the instrument, is the corporate seal of the corporation.

E. The qualified officer taking an acknowledgment must derive no personal profit as a result of the execution of the instrument.

F. The acknowledgment must be taken within the territorial jurisdiction of the qualified officer.

G. The acknowledgment must recite that a person acting in a fiduciary capacity is so doing.

H. The acknowledgment of an attorney in fact must state that his principal is alive and sane and that the instrument was executed in behalf of said principal.

I. If the qualified officer taking an acknowledgment is required to have a seal, said seal must not have expired and must be affixed to the acknowledgment. If the qualified officer taking an acknowledgment does not have a seal, a certificate of authority must by attached to the acknowledgment, except that no certificate of authority is required of officers of the U.S. Armed Forces or the U.S. Merchant Marine (see Sections 9-15.2K9 and 9-15.2K10).

J. The signature of the grantor must be in the same form as it appears within the party clause and within the acknowledgment, unless it is a signature by mark.
K. Officers qualified to take acknowledgments within the geographic area of their respective jurisdictions are as follows:

1. A United States District Court Commissioner.

2. A Judge, Clerk, or Deputy Clerk of the Supreme Court of the state of Washington.

3. A Judge, Court Commissioner, Clerk, or Deputy Clerk of a County Superior Court or a County Auditor or a Deputy County Auditor.

4. A Notary Public in and for the state of Washington (see Section 3-9).

5. Any person authorized to take acknowledgments according to the laws of any state other than the state of Washington, or of any territory, district, or possession of the United States wherein the acknowledgment is taken.

6. A Notary Public, Judge, Clerk, or other proper officer of any court of a foreign country.

7. The Mayor or other chief magistrate of any city, town, or municipal corporation in a foreign country.

8. In a foreign country, any minister plenipotentiary, secretary of a legation, charge d'affairs, consul, vice-consul, consular agent or commercial agent appointed by the United States Government.

9. Any officer of the United States Armed Forces having a rank equivalent to Second Lieutenant, or higher. An officer of the armed forces can take the acknowledgment only of a member of the armed forces. If the spouse of a member of the armed forces is a civilian, the acknowledgment of the signature of said spouse is taken by any other qualified officer.

10. The Master or First Officer of a vessel of the United States Merchant Marine, only of a member of the U.S. Merchant Marine. The signature of a civilian spouse is handled as described in Section 9-15.2K9.

L. Whenever an instrument is sent out of state for signature and acknowledgment, the proper acknowledgment form is attached, and the transmittal letter instructs the parties in interest that that acknowledgment form must be used.

9-15.3 Format Examples

Refer to Figure 9-15.3 for examples of acknowledgment formats.
Individual Form

STATE OF WASHINGTON )
County of _______________ )

On this ______ day of ____________ before me personally appeared ___________ to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that __ (he, she, they) __ signed and sealed the same as __ (his, her, their) __ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL) Notary Public in and for the State of
Washington, residing at ____________________________

My commission expires ____________________________

Corporate Form

Delete parenthetical statement if no corporate seal or if same is not affixed.

STATE OF WASHINGTON )
County of _______________ )

On this ______ day of ____________ before me personally appeared __________ to me known to be the __ (President, Secretary, Treasurer) __ of the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that __ (they are) __ authorized to execute said instrument (and that the seal affixed is the corporate seal of said corporation.)

GIVEN under my hand and official seal the day and year last above written.

(SEAL) Notary Public in and for the State of
Washington, residing at ____________________________

My commission expires ____________________________

Figure 9-15.3
Samples of Acknowledgment Formats (Page 1 of 5 Pages)
Attorney in Fact Form

STATE OF WASHINGTON )

County of _________ )

On this _____ day of ____________ before me personally appeared __ (name of attorney in fact) __ to me known to be the individual who executed the foregoing instrument as attorney in fact of __ (name of principal) __ therein described, and acknowledge to me that __ (he, she) __ signed and sealed the said instrument as such attorney in fact for said principal, freely and voluntarily, and for the uses and purposes therein mentioned, and on oath stated that the power of attorney authorizing the execution of this instrument has not been revoked and that the said __ (principal) __ is now living and sane.

GIVEN under my hand and official seal the day and year last above written.

(SEAL) Notary Public in and for the State of Washington, residing at ________________

My commission expires __________________

Self and Attorney in Fact Form

STATE OF WASHINGTON )

County of _________ )

On this _____ day of ____________ before me personally appeared __ (name of attorney in fact) __ to me known to be the individual in and who executed the foregoing instrument for __ (him, her) __ self and as attorney in fact of __ (name of principal) __ also therein described, and acknowledged to me that __ (he, she) __ signed the same as __ (his, her) __ voluntary act and deed and as the free and voluntary act and deed of the said __ (principal) __ for the uses and purposes therein mentioned, and on oath stated that the power of attorney authorizing the execution of this instrument has not been revoked and the said __ (principal) __ is now living and sane.

GIVEN under my hand and official seal the day and year last above written.

(SEAL) Notary Public in and for the State of Washington, residing at ________________

My commission expires __________________

Figure 9-15.3
Samples of Acknowledgment Formats (Page 2 of 5 Pages)
Self and Guardian, Executor or Administrator Form

STATE OF WASHINGTON  )
County of ______________ )

On this _____ day of __________________ before me personally appeared ____________________________ individually, and as (guardian, executor, administrator, etc.) of the estate of ____________________________, (incompetent, minor, insane, deceased, etc.), to me known to be the individual in and who executed the foregoing instrument, and acknowledged to me that (he, she) signed and sealed the same as (his, her) free and voluntary act and in the capacity and for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Notary Public in and for the State of Washington, residing at ________________________________

My commission expires ____________________________

Mayor and City Commissioners Form

STATE OF WASHINGTON  )
County of ______________ )

On this _____ day of __________________ before me personally appeared ____________________________ to me known to be the duly elected and qualified Mayor and City Commissioner of the City of ____________________________, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said City, for the uses and purposes therein mentioned, and each on oath stated that he (she) was authorized to execute said instrument by resolution of the Mayor and City Commissioners of said City, and that the seal affixed is the official seal of said City.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Notary Public in and for the State of Washington, residing at ________________________________

My commission expires ____________________________

Figure 9-15.3
Samples of Acknowledgment Formats (Page 3 of 5 Pages)
County Commissioners Form

STATE OF WASHINGTON    )
                          :
County of ______________ )

On this ____ day of ______________ before me personally appeared __________________________ each one to me known to be one of the duly elected, qualified and acting County Commissioners of ______________ County, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said County, for the uses and purposes therein mentioned, and each on oath stated that he (she) was authorized to execute said instrument by resolution of the Board of County Commissioners of said County, and that the seal affixed is the official seal of said County.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)                                  Notary Public in and for the State of
                                          Washington, residing at
                                          __________________________
                                          My commission expires
                                          __________________________

School District Form

STATE OF WASHINGTON    )
                          :
County of ______________ )

On this ____ day of ______________ before me personally appeared __________________________ and __________________________ to me known to be the duly executed qualified and acting (President and Secretary) (if a first class district)* (Chairman and Clerk) (if a second or third class district)* of the Board of Directors of School District No. ____ of ______________ County, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said School District for the uses and purposes therein mentioned and each on oath stated that he was authorized to execute said instrument by resolution of the Board of Directors of said School District and that the seal affixed is the official seal of said School District.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)                                  Notary Public in and for the State of
                                          Washington, residing at
                                          __________________________
                                          My commission expires
                                          __________________________

*Omit from test on preparation.

Figure 9-15.3
Samples of Acknowledgment Formats (Page 4 of 5 Pages)
Signature by Mark Form*

(ALter to suit gender)

STATE OF WASHINGTON

County of __________________________

On this ______ day of ________________, before me personally appeared ____________________________

with two witnesses, (she, he) to me known to be the individual
described in and who execute the within and foregoing instrument by affixing “X”, (her, his) mark, thereto in
the presence of the aforesaid two witnesses, and at such time, (she, he) acknowledged that (she, he) signed by
affixing (her, his) mark, “X”, as (her, his) frend voluntary act and deed for the uses and purposes therein
mentioned. Whereupon the two aforesaid witnesses subscribed their names in my presence as witnesses to the
mark of the said ____________________________

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Notary Public in and for the State of
Washington, residing at ________________

My commission expires ________________

*Use individual acknowledgement form if no witnesses used (see Section 9-14.2.2B)

Partnership Form*

STATE OF WASHINGTON

County of __________________________

On this ______ day of ________________, before me personally appeared ____________________________
each one known to me to be a General Partner of the firm known as ____________________________

that executed the within and foregoing instrument, and acknowledged said instrument to be the free and
voluntary act and deed of said firm, for the uses and purposes therein mentioned, and each on oath stated that
he was authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Notary Public in and for the State of
Washington, residing at ________________

My commission expires ________________

*If the PC shows title held by individuals, take acknowledgement as for individuals.

Figure 9-15.3
Samples of Acknowledgment Formats (Page 5 of 5 Pages)
9-16 Recording Block

A. In the space below the word “From” or the word “Between,” insert the name of the first grantor as it is shown in the party clause of the instrument. If the grantor’s spouse joins in the instrument, add “et ux.” or “et vir.” as appropriate. If the grantor is one of number of grantors, add “et al.” In the blank below the word “In,” insert the appropriate county.

B. At the bottom of the block the Project Title used in the heading of the instrument (see Section 9-5) is entered, followed by the Parcel Number.

C. The rectangular space between the above two mentioned entries is reserved for the County Auditor to enter the recording date and other recording information.

D. The left-hand margin of the instrument, adjacent to the top line of the recording block, is reserved for the entry of the headquarters permanent instrument file reference numbers.

9-17 Attachments/Corollary Documents

9-17.1 General

A. Items which may be appended to an instrument are referenced within the body of such instrument. As an appendage, the item is given and referenced to by an “EXHIBIT” identification letter.

B. A document such as an affidavit may be required to answer questions of grantors’ identity, status, interest, etc. Such a document is seldom appended to the principal instrument but is, instead, a corollary document and is not referenced in the instrument.

9-17.2 Rules

A. Attachments to an instrument are verbally bound to such instrument by appropriate language within the instrument at the point the attachment is first mentioned (see Section 9-17.4).

B. Attachments to an instrument are marked EXHIBIT “A,” EXHIBIT “B,” etc., in the order in which reference is made to each in the instrument.

C. There is no relationship required between the identifying letter of an exhibit and other identifications within the instrument, e.g., Parcel “A” does not need to be EXHIBIT “A” (if the length of the Parcel A description requires attachment as an exhibit) but it does help eliminate confusion.

D. The word “EXHIBIT” followed by its sequential exhibit identification letter (“A,” “B,” etc.) is inserted in the lower right-hand corner of each page of each exhibit above the Parcel Number.

E. Any document, though it may have a bearing on an instrument, is a corollary document unless made an attachment (EXHIBIT) as specified in A, above.

F. All attachments (appendages, exhibits, etc.) to an instrument are prepared and attached prior to execution of the instrument.

9-17.3 Affidavit

A. Whether used as an attachment or as a corollary document, an affidavit has one general form as shown in Figure 9-17.3.

B. An affiant is an individual person (not a corporation) who, under potential penalty of perjury, elects to swear and affirm to any fact or facts or combinations thereof.
Affidavit

STATE OF WASHINGTON       )
     : ss
County of ________________ )

__________________________________________, being first duly sworn on oath deposes and says:

(E.g., "That (he,she) was a single (man, woman) on ___ (date)___, date of acquiring title to the property
conveyed by that deed recorded ___(date)___ under Auditor's File No. _______________________, and has
remained a single (man, woman) at all times since.")

__________________________________________
(affidavit)

Subscribed and sworn to before me this ______ day of _____________________________.

__________________________________________
Notary Public in and for the State of
Washington, residing at _________________________

My commission expires _________________________

Figure 9-17.3
Affidavit (Sample)

9-17.4 Exhibits

9-17.4.1 Parcel Descriptions

A. The legal description is an acceptable attachment in accordance with Section 9-9.13.

B. The exhibit is verbally bound to the instrument by inserting (in the instrument at the location at which the
parcel description would otherwise appear) language such as the following: "See EXHIBIT "A" attached
hereeto and by this reference made a part hereof."

9-17.4.2 Exhibit Maps

A. State Right of Way or Sundry Site plans are acceptable.

B. Reduced copies of the right of way map sheets are acceptable, provided the map details are not made illegible
by the reduction and/or reproduction. Three copies of each exhibit map sheet are required. One is the exhibit
map attached to the executed original of the instrument. One is sent with said instrument to the County
Auditor because most counties do not have the facilities to reproduce the exhibit map. One is for retention in
the district instrument files.

C. Each map sheet reproduction is identified above the title block by the "EXHIBIT" identification letter given to
it within the instrument. The map sheet numbering, even though some of the map sheets may not be used, is
sufficient for page numbering of a multiple-page exhibit.

D. The exhibit maps are prepared by showing the areas to be conveyed as hatchured.
E. If more than one type of interest is to be conveyed, the exhibit maps are color-coded using the following color codes:

1. The areas to be conveyed in fee simple are shaded red.
2. The areas to be conveyed as easements are shaded blue.
3. The areas covered by permits are shaded green.

F. The uses to which an easement or permit are to be put, limited access hachures and other essential details, including a legend, are on each right of way map sheet and do not require special coloring.

G. In place of the acquisition description on the face of the instrument, the exhibit is verbally bound to such instrument by use of language selected and adapted from the following:

1. "... That area hatched on EXHIBIT 'A' attached hereto and by this reference made a part hereof."
2. "... That area conveyed in fee simple herein shaded in red color, that area conveyed as an easement herein shaded in blue color and that area granted as a permit herein shaded in green color on EXHIBIT 'A' attached hereto and by this reference made a part hereof."

9-17.5 Resolutions

An instrument from a governmental agency or corporation (in some cases) is accompanied by a Resolution which authorizes execution of the instrument (see Sections 6-5.1.1A3 and 6-5.1.1B).

9-18 Acceptance and Approval

A. After completion of review and verification that the title and/or interest required by the state is adequately described and suitably clear to the state, the Secretary of Transportation (or his designee) dates and executes each instrument which is contingent upon such acceptance and approval.

B. Instruments not contingent upon acceptance and approval by the Secretary are any instrument or document which:

1. Does not directly or indirectly commit the state to a monetary or other financial obligation.
2. Does not encumber property under the ownership or control of the state.
3. Will become binding upon the state only upon the acceptance and approval of another instrument.
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## Vouchers
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Chapter 10
Vouchers

10-1 General

10-1.1 Real Property Vouchers

The Real Property Voucher (WSDOT Form 262-039) is a legal document upon which an authorized claimant presents for payment itemized charges against the state. It is unlawful for the state to issue a warrant except upon a voucher (RCW 43.88.160). Examples of completed Real Property Vouchers are given in Appendix 10-1.

10-1.2 Voucher Distribution

The Voucher Distribution (WSDOT Form 134-128) is used to present for payment itemized charges against the state for services such as appraisal or specialist’s fees, relocation benefits, etc., or for the reclaims of money held by the state such as refund deposits, etc. Examples of completed Voucher Distributions are given in Appendix 10-2.

10-1.3 Invoice Vouchers

The Invoice Voucher (WSDOT Form 134-139) is used to present for payment itemized charges against the state for goods or services, not otherwise invoiced, such as reimbursement to employee for purchase price paid from personal funds for books for state use. An example of a completed Invoice Voucher is given in Appendix 10-3.

10-1.4 Relocation Assistance Vouchers

The Relocation Assistance Voucher (WSDOT Form 264-009) is used to pay all claims determined to be eligible under the Relocation Assistance Program. Types of payment include replacement housing benefits, moving cost reimbursement, and direct payments to moving companies and other vendors/contractors. Examples of completed Relocation Assistance Vouchers are given at Appendix 10-5.

10-2 Real Property Vouchers

10-2.1 Rules

A. The Real Property Voucher (WSDOT Form 262-039) is typewritten. No erasures, strike-overs, or corrections are permitted in any figure in the “Amount” column.

B. No changes or deletions are permitted in the claimant’s certificate which is in the upper right-hand corner of the voucher.

C. All items appearing on the voucher are documented. The just compensation for lands, improvements, damages, special benefits, etc., is supported by the Determination of Value (WSDOT Form 261-023). All other items are supported by bills, receipts, letters of approval, etc.

D. Every transaction involving a payment of money by the state requires at least one Real Property Voucher.
1. The “principal” *Real Property Voucher* is a summation of the entire transaction and includes, as applicable:

a. All items contributing to just compensation:

   1) Lands (in fee, easement, etc.) and access rights.
   2) Improvements.
   3) Damages.
   4) Less special benefits.

b. Legal/Administrative — an itemized list (e.g., statutory evaluation allowance, administrative settlement, etc.).

c. Other Items — an itemized list (e.g., escrow fee, title insurance premium, etc.).

d. Deductions — an itemized list (e.g., real estate taxes, assessments, performance bond, salvage value, construction items, etc.).

2. There may be one or more “secondary” *Real Property Vouchers*.

a. A “secondary” voucher is prepared to order payment of any sum which has been deducted from the “principal” voucher, such as:

   1) For payment of the grantor’s obligation to another party (e.g., real estate taxes).
   2) For the “hold back” voucher for reimbursement of a withheld (deducted) performance bond. (For refund of a deposit, see Section 10-3.2.3.)

b. A “secondary” voucher is prepared to order payment of an item which is not part of the “principal” voucher (e.g., the trustee’s ministerial fee).

Note: The seller’s incidental expenses are shown in the “Other Items” section of the “principal” voucher when the recipients thereof join with the grantor(s) on that voucher, or are to receive any payment due through an escrow distribution.

3. If a grantor is unable to accept any particular voucher language, the District Real Estate Services Manager (District RESM) contacts the Title and Condemnation Program Manager for instructions.

10-2.2 Procedures

10-2.2.1 Preparation

Following the examples given in Appendix 10-1, the Acquisition Agent prepares all necessary *Real Property Vouchers* in accordance with Section 10-2.1 as follows:

A. **GRANTOR OR CLAIMANT** block: Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the escrow agent’s name and address are inserted.

B. **SIGNATURE** block (located in upper right-hand corner):

   1. If the signatories are individuals, their names may be typed beneath the line upon which they are to sign, if desired. Since the voucher is tied to an instrument (e.g., deed, easement, release), the number of
payees and signatories can be limited by use of the appropriate “Payment Authorization” clause (see Chapter 9) in the instrument. If there is insufficient room in the signature block for all the required signatories, insert the words “See attached signature page” here, and have the signatories sign on a separate signature page. Attach copies (carbon or machine) of the signature page to each copy of the voucher.

2. If the signatory is a corporation, the corporation’s name and the titles of the officers signing for the corporation are typewritten in the signature block. The corporate officers then sign above their respective titles.

C. PROJECT NUMBER AND TITLE: The official project number and project title as shown on the approved right of way plan are inserted. The project number is identical to the applicable REAMS Project Number.

D. FEDERAL AID NO.: The federal aid project number is inserted.

E. PARCEL NO.: The parcel number(s) for the subject property is/are inserted.

F. Instrument reference: The type of instrument (e.g., warranty deed) that requires the payment of a consideration, and the date of the grantor’s execution thereof are inserted.

G. Items contributing to just compensation: All items contributing to the just compensation are inserted as follows (but see H3 below with regard to court or jury awards):

1. LANDS CONVEYED: Insert the area (in acres or square feet) of all lands conveyed in fee, easement, etc., showing each area separately. Check that these areas conform with the areas shown on the DV and with those shown on the latest revision of the approved right of way plan. If access rights are included, see Section 10-2.3.3.

2. IMPROVEMENTS CONVEYED: All improvements acquired by the transaction are listed together with their total value as shown in the DV.

Note: All improvements and their value are listed here. If the grantor is obtaining salvage rights on any of the improvements, see Section 10-2.2.1 J 3.

3. FOR ALL REMAINDERS CONVEYED: Any lands acquired that are in excess to required lands are listed using the value as shown on the DV.

4. FOR ALL DAMAGES: Normally damages are not to be described to any extent greater than they are described in the DV. If the voucher is for some special damage, the type of damage is inserted (e.g., “for loss of ground water source”).

5. LESS SPECIAL BENEFITS: If the DV identifies any special benefits, and:

a. If the owners elect to accept the WSDOT’s offer, the amount of the special benefits is inserted. This amount is subtracted from the amounts specified in the DV for lands, improvements, and damages.

b. If the owners elect to accept the WSDOT’s offer of fair market value for the acquisition portion plus damages, if any, to the remainder, but defer the offsetting of the special benefits by entering into a lien, the parenthetical phrase “(lien option exercised)” is entered immediately following the words “Less Special Benefits”; the amount of special benefits is inserted as in “a,” above; and the deduction negated and the lien noted in the Legal/Administrative section. See H4, below.
H. LEGAL/ADMINISTRATIVE: Insert an itemized list and the amounts paid in excess of the just compensation. The following are examples:

1. Statutory Evaluation Allowance: The total of all receipts or statements submitted which cover evaluation services (to a maximum of $200.00 regardless of number of parcels) is inserted. If there is no claim, insert the word “None,” and if the grantor is not a signatory to the voucher, have him initial this item. If negotiations are conducted by correspondence, insert the words “to be separately vouchered, if any” on the “principal” voucher. In this situation, a “secondary” voucher is prepared and executed by correspondence if there is a statutory evaluation allowance claimed.

2. Administrative/Stipulated Settlement: If an administrative or stipulated settlement has been approved (see Chapter 6), insert the words “Administrative Settlement” or “Stipulated Settlement” and the amount thereof (i.e., the amount over and above the DV).

3. Court/Jury Award: Insert the words “Court Award” or “Jury Award,” as appropriate, and the amount thereof. No detail of the award is shown. The trial attorney’s certificate must accompany the voucher.

4. If the owners have entered into a lien to defer the offsetting of special benefits (G5b, above), insert the clause given in Section 10-2.3.13 and insert the amount of special benefits in the “Amount” column (thereby negating the deduction).

I. OTHER ITEMS: An itemized list is inserted in this section. These include, but are not limited to, the following:

1. TITLE INSURANCE PREMIUM: If WSDOT elects to purchase title insurance in excess of that provided by the Contract for Title Evidence.

2. ESCROW FEE AND SALES TAX: If the transaction is to be closed in escrow, insert the escrow fee and the sales tax in the blanks provided.

3. Other closing costs: Insert description and amounts. Invoices or other substantiating data are required for all fees except the trustee’s ministerial fee, the title insurance premium, and the escrow fee.

J. DEDUCTIONS: An itemized list of all deductions is inserted in this section. The amount of each deduction is preceded with a minus sign in the “Amount” column. Deductions include, but are not limited to, the following:

1. Real Estate Taxes: Insert years, tax lot numbers, and amounts.

2. Assessments: Insert identification and amount.

3. Salvage Value: If the grantor is obtaining the salvage rights, insert the clause shown in Section 10-2.3.11 and the amount shown for these rights on the Fixtures and Improvements Agreement (WSDOT Form 263-005).

4. Performance Bond: Insert the clause shown in Section 10-2.3.12A and the amount as shown on the Fixtures and Improvements Agreement.

5. Trades/Exchanges: Insert the clause shown in Section 10-2.3.9 and the amount shown in either the DV or the Surplus Property Report.

6. Construction Item: Insert a brief description of the item (e.g., “Type A Road Approach at or near HES CPR 250+00”) and either the amount charged (if any) or “N/C” (no charge).
10-2.2.2 Signature

The acquisition agent:

A. Obtains the signature of the appropriate grantors or claimants in the signature block (see Sections 9-14 and 10-3.1 B).

B. Assures that the date of signing is inserted in the space provided.

C. Signs and dates the voucher in the space provided.

D. Gives the third (Grantor) copy of the voucher to the grantor or claimant; includes the original and all other copies of the voucher with the acquisition transmittal for approval and distribution.

10-2.2.3 Approval

A. The District REMS inserts the tabulation of data which identifies the breakdown of funds into federal participating and nonparticipating in accordance with the reference cited in Section 1-3.1AQ. If more than one parcel number is entered (Section 10-2.2.1E, above) a segregation between each parcel number must also be made in the following cases:

1. When the acquisition straddles control section termini.

2. When the acquisition lies in more than one federal aid project.

3. When one or more of the parcels (but not all) acquired in a single acquisition involves the acquisition of excess right of way or an uneconomic remnant.

B. The District Accountant takes required actions, although some district accounting offices will not require processing through their offices.

C. The remainder of the approval is conducted as a part of the headquarters processing.

10-2.3 Clauses

The acquisition agent inserts the following clauses in the Voucher as needed:

10-2.3.1 Land Only

After “For All Lands conveyed,” insert: “approx. ________ (acres or square feet) in fee.” If appropriate, continue with: “approx. (acres or square feet) in easement,” etc.

10-2.3.2 Access Rights Only

Cross out the words “For All Lands Conveyed” and insert: “For All Access Rights.”

10-2.3.3 Land and Access Rights

Following the text in Section 10-2.3.1, continue with: “and for all access rights,” following the lands conveyed in fee, if any.

10-2.3.4 Improvements

After “For All Improvements,” insert a list of the improvements as given in the DV (WSDOT Form 261-023); e.g., “Dwelling, garage, out buildings,” etc.
10-2.3.5 All Remainders Conveyed

"Approx. ________ (acres or square feet) and/or improvement (describe improvement)" as given in the DV (WSDOT Form 261-023).

10-2.3.6 Damages

Damages are handled as specified in Section 10-2.2.1J4.

10-2.3.7 Construction Items

Construction items are handled as specified in Section 10-2.2.1J6.

10-2.3.8 Timber and Crops

If the grantor is not permitted to remove timber or crops, insert the following text under "Legal/Administrative": "For loss of (all standing or down timber, crops)."

10-2.3.9 Trades/Exchanges

If the transaction involves a trade or exchange, insert the following text under "Deductions": "The state agrees to convey (when the new facility is opened to traffic) that certain tract of land identified as Parcel/Inventory Control No. as fully set forth in the Exchange Agreement dated __________. Enter value in the amount column.

Note: If both parcel and inventory control numbers are available, insert both.

10-2.3.10 Administrative Settlement

Under "Legal/Administrative," insert: "Administrative Settlement."

10-2.3.11 Salvage of Improvements

Under "Deductions," insert: "Value of Grantor-Acquired Salvage of Improvements (from WSDOT Form 263-005)."

10-2.3.12 Performance Bond

A. On the "principal" voucher, insert under "Deductions" the following text: "Performance Bond (from WSDOT Form 263-005)."

B. On the "secondary" voucher, insert under "Other Items" the following text: "Performance Bond withheld on Voucher No. ________ " (The blank Voucher No. is filled in with ink when the principal voucher has been numbered.)

10-2.3.13 Special Benefits, Lien For

If the owners enter into a lien to defer the offsetting of the special benefits, under "Legal/Administrative" insert "$__________ in special benefits subject of $__________ Lien dated ________________________ ."

10-3 Voucher Distribution

10-3.1 Rules

A. There are two voucher forms entitled Voucher Distribution (WSDOT Form 134-128 and WSDOT Form 134-046). Each is typewritten with no erasures, strike-overs, or corrections permitted in any amount to be charged against the state.
1. **Voucher Distribution** (WSDOT Form 134-128) is used for all claims for payment for services, material, equipment, etc.

2. **Voucher Distribution** (WSDOT Form 134-046) is used solely for the refund of the money of others which has come into state hands in the form of deposits, advance rentals, etc., and which is held in suspense pending disposition.

   B. All claims for payment for services, equipment, etc., are supported by attaching bills, statements, invoices, or other documentation to the appropriate voucher form.

   1. Fee appraisal or specialist services, and other acquisition services:

      a. Partial payment of up to 80 percent of the total fee may be authorized when the service has been received and it is found that there will be undue delay in the review and/or acceptance of the product. A voucher for partial payment includes computation of the difference between the total amount of the accompanying invoice and the amount of the voucher.

      b. All vouchers for such services are authorized for payment by the Director, Real Estate Services (DRES) on the face of the voucher.

   2. Newspaper advertisements for surplus property sales.

   3. Purchase of a calculator for office use.

10-3.2 **Procedures**

10-3.2.1 **Appraisal, Specialist, and Other Acquisition Services**

   A. The District RESM prepares the voucher, signs it in the “Div. or Unit Received by” block, and transmits it with the original invoice to the DRES.

   B. The DRES reviews the voucher and its attachments for completeness and accuracy, authorizes payment by signing on the face of the voucher, and transmits it to the Comptroller for payment.

10-3.2.2 **Pre-Trial and Court Services**

Invoices for services contracted by the Attorney General’s Division, such as appraisal/specialist estimates or other acquisition type services for court preparation, stipulated settlement, or trial purposes are vouchered exclusively by the Chief Counsel.

10-3.2.3 **Property Management Services (Refunds)**

   A. Following the example in Appendix 10-2, the Property Management Program Manager prepares the **Voucher Distribution** (WSDOT Form 134-046) as specified in Section 10-3.1, and submits it, together with supporting documentation in the form of the Receipt Number under which the funds came into WSDOT’s hands, to the DRES.

   B. Upon approval, the DRES signs the **Voucher Distribution** in the “Div. or Unit Received By” block, and transmits the voucher and its attachments to the Comptroller for processing and payment.
10-4 Invoice Vouchers

10-4.1 Rules

A. The Invoice Voucher (WSDOT Form 134-139) is typewritten. No erasures, strikeovers, or corrections are permitted in any amount to be charged against the state.

B. Since the Invoice Voucher contains the “Vendor’s Certificate,” it is not necessary to submit any supporting documentation with the Voucher.

10-4.2 Procedures

A. The District REM prepares the Invoice Voucher as specified in Section 10-4.1 and obtains the vendor’s signature on the “Vendor’s Certificate.”

B. Exercising an authority which may not be subdelegated, the District REM reviews the voucher, signs it in the “Division or Unit Received By” block, and transmits the voucher through channels to the District Accountant for processing and payment.

10-5 Relocation Assistance Vouchers

10-5.1 Rules

A. The Relocation Assistance Voucher (WSDOT Form 264-009) is typewritten. No erasures, strikeovers, or corrections are permitted in any amount to be charged against the state.

B. All claims for payment are documented by attaching invoices, statements, or other supporting documentation.

C. Any deductions made for delinquent rent require additional documentation assuming that the displacee’s ability to move and serve replacement housing will not be jeopardized. Prior approval by the Relocation Program Manager is required.

10-5.2 Procedures

10-5.2.1 Preparation

Following the examples given at Appendix 10-5, the agent prepares the Relocation Assistance Voucher (WSDOT Form 264-009) in accordance with Section 10-5.2.1 as follows:

A. Displacee or Claimant block: Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the escrow agent’s name and address are inserted.

B. Signature block (upper right-hand corner):

1. If the claimant is also the displacee, the claimant must sign in this space.

2. If the claimant is not the displacee (as in the case of a direct payment to a commercial mover or an escrow agent) the displacee’s name is typed in this space and additional documentation such as an original invoice must be attached.

C. Project Number and Title: The official project number and project title as shown on the approved right of way plan are inserted.

D. Federal Aid Number: The most current federal aid number is inserted here.
E. Parcel Number: The parcel number for the subject property is inserted here.

F. Displacee Number: The number assigned by REAMS to the displacee is inserted.

G. Date Parcel Vacated: The later of the date the displacee's personal property has been removed from the parcel or the date the displacee relinquishes control of the property (such as delivery of the keys to the dwelling).

H. Replacement Housing Payments:

1. Replacement Housing — 180-day owner: Amounts paid to or on behalf of residential owner-occupants displaced by a project (who have been in occupancy of the acquired dwelling for at least 180 days prior to initiation of negotiations) for a purchase or rent supplement payment. Includes reimbursement for loan fees and incidental purchase expenses.

2. Increased Interest: Amount paid to owner-occupant for increased interest costs associated with financing the purchase of a replacement dwelling.

3. Rental Assistance — 90-day tenant and certain other: Amount paid to 90-day tenants and owner-occupants (who have been in occupancy between 90 and 180 days prior to the initiation of negotiation) for a rent supplement.

4. Down Payment Assistance — 90-day tenants and certain other: Amount paid to 90-day tenant and owner-occupants (who have been in occupancy between 90 and 180 days prior to initiation of negotiations) for a down payment allowance.

5. Last Resort Housing-Owner: Any amount paid under the category of last resort housing to or on behalf of a residential owner-occupant displacee.

6. Last Resort Housing-Tenant: Any amount paid under the category of last resort housing to or on behalf of a residential tenant-occupant displacee.

7. Other: This portion of the voucher can be used to provide a narrative, such as a last resort housing case where payments will be made on an installment basis. If an advance payment has been or will be made, a narrative is also required.

I. Moving Expense Amounts:

1. Schedule/Dislocation Allowance-Residential: Amount paid to a person displaced from a dwelling by a project. The payment is based upon the number of rooms in the dwelling and whether they are furnished or not.

2. Actual Expenses-Residential: Amount paid to or on behalf of persons displaced from a dwelling by a project. Basically, any moving related payment which is not a schedule type would fall into this category.

3. Payment in Lieu of All Other Moving Expenses — Business/Farm/NPO: A particular type of payment available only to business, farms, or nonprofit organizations which meet certain criteria. This payment is also called a "Fixed" payment and is in lieu of any and all other types of payments for which the displacee would otherwise be entitled.

4. Actual Costs-Business/Farm/NPO: Amounts paid to or on behalf of business, farm, or nonprofit organization for all eligible expenses, excluding a payment in lieu of all actual moving expenses.
5. Reestablishment Costs-Business/Farm/NPO: Amounts paid to or on behalf of a small business, farm, or nonprofit organization for eligible expenses incurred in reestablishing the displaced activity at a replacement site.

6. Other: This portion of the voucher can be used to provide a narrative — such as explaining an advance payment or deductions. Also, any moving payment which would not fit into one of the previously listed categories.

K. Deductions: This space is used when a deduction is necessary for rent delinquency or similar situation.

10-5.2.2 Signature

The Right of Way Agent:

A. Obtains the signature of the appropriate claimant(s).

B. Assures that the date of signing is inserted in the space provided.

C. Signs and dates the voucher in the space provided.

D. Gives the goldenrod-colored copy to the grantor.

10-5.2.3 Approval

A. The agent inserts the tabulation of data which identifies the account coding and the breakdown of federal participating and nonparticipating costs. Account coding information is contained in the departmental publication identified as the Chart of Accounts, M 13-01, Chapter 10.

B. The District Accountant assigns a voucher number and signs voucher.

C. The remainder of the approval is conducted as a part of the headquarters processing.

10:M:RES3
Appendix 10-1
Real Property Vouchers

This Appendix includes examples of completed Real Property Vouchers (WSDOT Form 262-039) for an acquisition transaction.

Enclosure 1 — The “Principal” Real Property Voucher

As the “principal” Real Property Voucher, Enclosure 1 summarizes the entire transaction. The following information is included thereon:

1. Payee’s name and address.
2. Grantors’ signatures and the date of their signing.
3. Project number and title.
4. Federal aid project number.
5. Parcel number.
6. Instrument type and date.
7. Area(s) and interest(s) in lands conveyed, access rights conveyed.
8. Improvements acquired by the state.
9. For all remainders conveyed.
10. Damages.
11. Special benefits.
12. Just Compensation as shown on the DV.
15. Final settlement.
16. Title insurance data and premium.
17. Escrow fee.
18. Fee for PRM.
19. Subtotal costs.
20. Exchange — the value of which is deducted from the just compensation.
22. Real estate tax deduction.
23. Deduction of the value of salvage rights.
25. Amount to be paid; i.e., the amount of the state's warrant.
26. Funds allocation.
27. Total funds allocated by this voucher.
28. Acquisition Agent's signature and date.

Enclosure 2 — A "Secondary" Real Property Voucher — Performance Bond

Enclosure 2 is a "secondary" Real Property Voucher illustrating the setup for the refund of the performance bond which was withheld on the "principal" voucher.

Enclosure 3 — A "Secondary" Real Property Voucher — Taxes

Enclosure 3 is a "secondary" Real Property Voucher illustrating the set-up for the payment of real estate taxes.
REAL PROPERTY VOUCHER

AGENCY NAME
DEPARTMENT OF TRANSPORTATION
Office of Land Management
Transportation Bldg., KF-01
Olympia, Washington 98504

GRANTOR OR CLAIMANT NAME, ADDRESS
Brand "X" Title Company
1234 Fifth Avenue
Seattle, WA 98101

PROJECT NO. AND TITLE
SR 90, Echo Lake to Tanner

FEDERAL AID NO. I-90-1(7120)
PARCEL NO. 7-07777

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ITEMS AND AMOUNTS
LISTED HEREIN ARE PROPER CHARGES AGAINST THE STATE OF WASHINGTON, THAT
THE SAME OR ANY PART THEREOF HAS NOT BEEN PAID, AND THAT I AM AUTHORIZ-
ED TO SIGN FOR THE CLAIMANT.

Signature (in ink) //s//
Date 1/02/91

Joseph T. Smith
//s//

Marian L. Smith

By: //s//
President
Scrhee & Marley Investment Co.
12/28/90

IN FULL, COMPLETE AND FINAL PAYMENT AND SETTLEMENT FOR THE TITLE OR INTEREST CONVEYED OR RELEASED, AS
FULLY SET FORTH IN
Warranty Deed
1/02/91

$ AMOUNT

LANDS CONVEYED
Approx. 16.3 Acres in fee and for all access rights
1/02/91

IMPROVEMENTS CONVEYED
dwelling, garage & outbuilding including site improvements
45,500.00

FOR ALL REMAINDERS CONVEYED
Approx. 0.3 Acres
+ 250.00

FOR ALL DAMAGES
+ 1,250.00

LESS SPECIAL BENEFITS
- 2,000.00

LEGAL ADMINISTRATIVE
JUST COMPENSATION
45,000.00

ADMINISTRATIVE SETTLEMENT
1,000.00

STATUTORY EVALUATION ALLOWANCE
200.00

TOTAL
46,346.90

FINAL SETTLEMENT
46,200.00

TITLE INSURANCE PREMIUM FOR $ 50,000.00 : PC NO. 234567 2 BPG'S
PREMIUM $ 234.75 = CREDIT: 146.00 = SUB TOTAL 88.75 + SALES TAX 5.50
94.25

ESCRROW FEE: $ 50.00 + SALES TAX 2.65
52.65

DEDUCTIONS
Value of Grantor - acquired salvage rights
Performance Bond Voucher

-150.00
-2,500.00

TOTAL
43,696.00

TOTAL DEDUCTIONS
2,650.00

TOTAL NET AMOUNT
$ 43,696.90
43,696.90

ACQUISITION AGENT //s//
John J. Jones
Date 1/02/91

DISTRICT ACCOUNTANT

CHIEF RIGHT OF WAY AGENT

DOT TOTAL (24-035)

DISTRIBUTION
ORIGINAL 1-10 ACCOUNTING COPY 1-GRANTOR COPY 2-DISTRICT COPY 3-OTHER

Enclosure 1
The "Principal" Real Property Voucher (Example)

Right of Way Manual
M 26-01

Appendix 10-1
Change 24
August 1991
**REAL PROPERTY VOUCHER**

**AGENCY NAME:**
DEPARTMENT OF TRANSPORTATION
Office of Land Management
Transportation Bldg., KF-01
Olympia, Washington 98504

**GRANTOR OR CLAIMANT (NAME, ADDRESS):**
Joseph T. Smith & Marian L. Smith
Rt. 1 Box 234
Aberdeen, WA 98520

**PROJECT NO. AND TITLE:**
75022C
SR 90, Echo Lake to Tanner

**FEDERAL AID NO.:**
I-90-1(71)28

**PARCEL NO.:**
7-07777

---

**I HEREBY CERTIFY UNDER PUNISHMENT OF PERJUR Y THAT THE ITEMS AND AMOUNTS LISTED HEREIN ARE PROPER CHARGES AGAINST THE STATE OF WASHINGTON, THAT THE SAME OR ANY PART THEREOF HAS NOT BEEN PAID, AND THAT I AM AUTHORIZED TO SIGN FOR THE CLAIMANT.**

**SIGNATURE (IN INK):**

\[///\text{S/}///\]

**DATE:**
12-15-90

Joseph T. Smith

**DATE:**
12-15-90

Marian L. Smith

---

**LANDS CONVEYED:**

**IMPROVEMENTS CONVEYED:**

**FOR ALL REMAINDERS CONVEYED:**

**FOR ALL DAMAGES:**

**LESS SPECIAL BENEFITS:**

**LEGAL, ADMINISTRATIVE:**

**ANNUAL ALLOWANCE:**

---

**OTHER ITEMS:**

**TITLE INSURANCE PREMIUM FOR:**

- **PC NO.:**
- **SPCS:**

**PRESENT:**

- **CREDIT:**
- **SUB TOTAL:**
- **SALES TAX:**

**STRENGTH:**

Performance Bond withheld on Voucher No. 2,500.00

---

**DISTRIBUTION:**

- **ORIGINAL:**
- **ACCOUNTING:**
- **GRANTOR:**
- **LEGISLATIVE:**
- **RIGHT OF WAY:**

---

**ACQUISITION AGENT:**

\[///\text{S/}///\]

John Jones

**DATE:**
1-2-91

**CHIEF RIGHT OF WAY AGENT:**

---

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**Dispensation of Real Property Voucher — Performance Bond (Example)**

Appendix 10-1
Change 24
August 1991
Enclosure 3

A "Secondary" Real Property Voucher — Taxes (Example)

Right of Way Manual
M 26-01

Appendix 10-1
Change 24
August 1991
Appendix 10-2
Voucher Distribution

This Appendix includes examples of completed Voucher Distributions (WSDOT Form 134-128).

Enclosure 1 — Voucher Distribution — Appraisal Services
Enclosure 2 — Voucher Distribution — Property Management Services
Enclosure 3 — Voucher Distribution — Equipment and Supplies
Enclosure 1

Voucher Distribution — Appraisal Services (Example)
Notice of Default: Rental Agreement No. 1-06034

Please return copy of voucher to Property Management showing warrant number and date mailed.
VOUCHER DISTRIBUTION

Vendor Name and Address (print or type)

Electronics Corporation
10 Keystone Place
Paramus, New Jersey 07652

Accounting Classification

<table>
<thead>
<tr>
<th>Work Order</th>
<th>Group</th>
<th>Function</th>
<th>Account</th>
<th>Sub</th>
<th>Equipment Number</th>
<th>Org. Number</th>
<th>Org. No.</th>
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<th>M RT AMOUNT</th>
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<tr>
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<td>01</td>
<td>C1</td>
<td>402</td>
<td>06</td>
<td>57</td>
<td>335831</td>
<td></td>
<td></td>
<td>181.00</td>
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Totals

181.00

Purchase Authorization or Invoice Numbers Below:

1. FS81750
2. 3.
4. 5.
6. 7.
8. 9.
10. 11.

Agreements

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<tr>
<th>Date</th>
<th>Agreement</th>
<th>Post</th>
<th>Applicable</th>
<th>Work Cover</th>
<th>Date</th>
<th>Number</th>
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<th>Discount</th>
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Totals

181.00

Nature of Approving Authority

Signed and Approved for Processing By

Date

Receiving Verification

Date Received

Voucher Number

135348H

Enclosure 3

Voucher Distribution — Equipment and Supplies (Example)
Appendix 10-3
Voucher Distribution

Enclosure 1 — *Refunds of Revenue* — Property Management Services
REFUNDS OF REVENUE

VENDOR NAME AND ADDRESS (Print or type in ink - 25 positions allowed per line)
Mr. & Mrs. Gary W. Adams
Rt. 1, Box 80
Coulee City, WA 99115

EXPLANATION

I.C. #2-13-00236 CC-2-00356
AB43 03/21/89

Refund of overpayment

ACCOUNTING CLASSIFICATION

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<tr>
<th>YEAR CODE</th>
<th>TYPE</th>
<th>FUNCTION</th>
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<td>0730</td>
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TOTAL $70.20

INVOICE

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<th>YR</th>
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<tr>
<td>3</td>
<td>23</td>
<td>89</td>
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<td>$70.20</td>
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TOTAL $70.20

AUTHORIZED BY: Terry Cook

DATE 3/23/89

PREPARED BY: Wendy Johnson

DATE 3/23/89

DOT FORM 130-448
REVISED 7/81

Enclosure 1

Refunds of Revenue — Property Management Services (Example)
Appendix 10-4
Invoice Voucher

Enclosure 1 — *Invoice Voucher* — Ancillary Expenses
**Enclosure 1**

*Invoice Voucher — Ancillary Expenses (Example)*

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**Appendix 10-4**
**Change 24**
**August 1991**

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**Right of Way Manual**
**M 26-01**
Appendix 10-5
Relocation Assistance Voucher

Enclosure 1 — Relocation Assistance Voucher
Enclosure 2 — Relocation Assistance Voucher
**RELOCATION ASSISTANCE VOUCHER**

**AGENCY NAME**
DEPARTMENT OF TRANSPORTATION
Office of Land Management
Transportation Bldg., KF-01
Olympia, Washington 98504

**DISPLACED OR CLAIMANT (NAME, ADDRESS)**
A. B. Normal
500 Maple St. SW
Olympia, WA 98504

**PROJECT NO. AND TITLE**
50126A
SR 5, Johnson Point to SR 12

**FEDERAL AID NO.**
I-5-468(11B)

**REPLACEMENT HOUSING PAYMENTS**

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<th>Amount</th>
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<tbody>
<tr>
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<tr>
<td>INCREASED INTEREST</td>
<td>4,000.00</td>
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<tr>
<td>RENTAL ASSISTANCE - 90 DAY TENANTS AND CERTAIN OTHERS</td>
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</tr>
<tr>
<td>DOWN PAYMENT ASSISTANCE - 90 DAY TENANTS AND CERTAIN OTHERS</td>
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</tr>
<tr>
<td>FOR LAST RESORT HOUSING - OWNER</td>
<td></td>
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<tr>
<td>LAST RESORT HOUSING - TENANT</td>
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<tr>
<td>OTHER (Describe)</td>
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**MOVING EXPENSE PAYMENTS**

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<th>Item Description</th>
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<tr>
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<tr>
<td>ACTUAL COSTS - BUSINESS/FARM/IMPO</td>
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<td>REESTABLISHMENT COSTS - BUSINESS/FARM/IMPO</td>
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<td>OTHER (Describe)</td>
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**Deductions**

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**INVOICE**

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<td>371 JN 75</td>
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**TOTAL DEDUCTIONS**

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**RELOCATION AGENT**

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<table>
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<th>District Supervisor Date</th>
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**CHIEF RIGHT OF WAY AGENT**

<table>
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<th>Date</th>
<th>Warrant Register Number</th>
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Enclosure 1

**Relocation Assistance Voucher (Example)**

Appendix 10-5
Change 24
August 1991
RELOCATION ASSISTANCE VOUCHER

AGENCY NAME
DEPARTMENT OF TRANSPORTATION
Office of Land Management
Transportation Bldg., KF-01
Olympia, Washington 98504

DISPLACEE OR CLAIMANT (NAME, ADDRESS)
H. R. Forest & Jim Curry (Landlord)
2010 Henny Penny Dr.
Washougal, WA 98667

PROJECT NO. AND TITLE
SR 243, Granite Creek to SR 107

PARCEL NO.
BR 243

DISPLACE NUMBER
9-03487

DATE PARCEL VACATED
September 5, 1991

REPLACEMENT HOUSING PAYMENTS
REPLACEMENT HOUSING - 180 DAY OWNER
INCREASED INTEREST
RENTAL ASSISTANCE - 90 DAY TENANTS AND CERTAIN OTHERS
DOWN PAYMENT ASSISTANCE - 90 DAY TENANTS AND CERTAIN OTHERS
FOR LAST RESORT HOUSING - OWNER
LAST RESORT HOUSING - TENANT

The total entitlement is $6,815.50 to be paid

800.00

OTHER (Describe)

as follows: The first payment will be $800 paid jointly to H. R. Forest and the displacee's landlord, Jim Curry. The next 10 monthly installments will be $546.65 each paid directly to H. R. Forest. The last will be $47.00.

MOVING EXPENSE PAYMENTS
SCHEDULE / DISLOCATION ALLOWANCE - RESIDENTIAL
ACTUAL EXPENSES - RESIDENTIAL
PAYMENT IN LIEU OF ALL OTHER MOVING EXPENSES - BUSINESS/FARM/PNO
ACTUAL COSTS - BUSINESS/FARM/PNO
REESTABLISHMENT COSTS - BUSINESS/FARM/PNO
OTHER (Describe)

DEDUCTIONS

SUB-TOTAL


INVOICE NO. AMOUNT

PARCEL

WORK ORDER
GRD
FUNCTION IND
ACCOUNT ACT
CONTROL SECTION
ORG NO
NON-PART
TOTAL

TOTAL DEDUCTIONS

RELOCATION AGENT

DISTRICT SUPERVISOR

DATE

DISTRICT ACCOUNTANT

DATE

WARRANT REGISTER NUMBER

VOUCHER NUMBER

DOT 264-009
Revised 1/289

Enclosure 2

Relocation Assistance Voucher (Example)

Right of Way Manual
M 26-01

Appendix 10-5
Change 24
August 1991