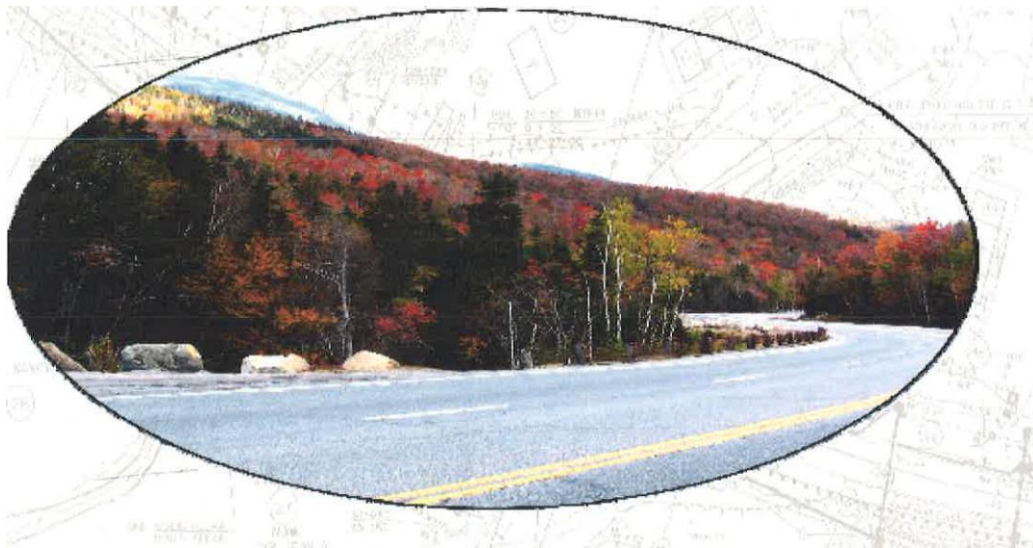


***Right of Way***  
**Manual**



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# Right Of Way Manual

## CHAPTER 1 - PURPOSE AND OVERVIEW

### 1.01 PURPOSE

The objective of this manual is to establish a standard for the management, processes and methods used by the New Hampshire Department of Transportation (Department), Bureau of Right-of-Way (the Bureau).

This manual serves as a guide to the personnel of this Bureau and others, performing in their official capacity on behalf or under the oversight of the State of New Hampshire, to be above reproach in all relationships with property owners and other interested persons and/or agencies. It is essential that right-of-way (ROW) and relocation assistance procedures be followed which will result in settlements that are fair to all parties.

It is also the intent of this manual to coordinate processes and adhere to the principles under State and Federal Laws and Regulations, whereby participation of Federal funds is permitted in ROW and property damage costs.

#### A. AUTHORITY

STATEMENT OF WHO AUTHORIZED AND APPROVED THE MANUAL INCLUDING SIGNATURE

#### B. SCOPE

This manual shall apply to all employees in all organizational units of the New Hampshire Department of Transportation.

#### C. REFERENCES

##### SOS References

None

## **Federal References**

91-646 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ( law as passed by Congress)

42 U.S.C. Ch. 61 – Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (United States Code codification)

49 CFR 24 - Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs (Federal implementing regulation)

23 CFR 710 – Right-of-Way and Real Estate

### **D. GENERAL**

Reference is made to Code of Federal Regulations, 23 CFR Part 710 and 49 CFR Part 24, which may be accessed via the web site [www.fhwa.dot.gov](http://www.fhwa.dot.gov) which are fully incorporated herein by reference. All Federal-aid projects are required to comply with this manual and Title 23 United States Code.

### **E. TRAINING**

WHAT IS REQUIRED, HOW IT IS ACCESSED, OR WHAT ADDITIONAL TECHNICAL RESOURCES ARE AVAILABLE TO THE READER.

## **1.02 OVERVIEW**

This Bureau, in the Department of Transportation, Division of Project Development, is one of eight (8) bureaus under the Director of Project Development who is appointed by the Governor and Executive Council (G & C). The Bureau is located in the John O. Morton State Office Building in Concord, New Hampshire.

The Bureau consists of five (5) sections: Administration (Chapter 2), Land Titles (Chapter 3), Appraisal (Chapter 4), Acquisition/Relocation (Chapter 5, 6, & 7), and Property Management (Chapter 8). The Right-of-Way Administrator (Administrator) is directly responsible for the operation of all phases of the Bureau. The Right-of-Way Assistant Administrator (Assistant Administrator) manages the coordination

and activities of the Acquisition/Relocation, Land Titles and Property Management sections. (See Organizational Chart, Appendix page 238)

### **1.03 FUNCTION**

The Bureau is responsible for the acquisition, management, and disposal of all real property, or interests therein, under the jurisdiction of the Department. The principle function of the Bureau is the acquisition of ROW for the construction and improvement of the State's public highways and bridges. New Hampshire Revised Statutes Annotated (RSA) Chapters 228 through 239 provide authority to lay out highways and acquire property to meet the needs of the traveling public and commerce and RSA 498-A outlines the steps for acquiring land for highway purposes using the Eminent Domain process. Disposal of surplus land is covered by RSA 4:40 & 228:31, and 23 CFR 710 Subpart D and explained in detail in Chapter 8 of this manual.

The Bureau also has the responsibility of aiding in the determination of highway locations by preparing cost estimates on alternate locations and suggesting changes in alignment and grade when it appears that these changes will materially lessen the cost of a project.

Additionally, the Bureau makes all arrangements for project public hearings, finding of necessity meetings and Highway Layout Commission of 3 Persons (Commission) meetings. The Transcript of the Public Hearing for the Governor & Executive Council's (G&C) Special Committee or Commission public hearing and the meeting minutes for the Finding of Necessity meeting and any additional Commission meetings fall under the Bureau's responsibilities as well (Chapter 2).

There are three (3) processes unique to the Bureau:

- 1) Public Hearing Process-coordinate the location and time and public notification (for public hearings);
- 2) Contemplated award process (to request and receive checks for acquisition of land, payments for relocation, and out of court settlements, jury verdicts or Board of Tax and Land Appeals hearings);
- 3) Eminent Domain process (acquire land and buildings by condemnation using the Eminent Domain Act RSA 498-a).

## **1.04 OVERVIEW OF RIGHT-OF-WAY PROCESS**

As a result of transportation improvement projects it is at times necessary for the state to acquire private property to expand or improve the existing transportation system. The acquisition of ROW is complex, an array of title interests, such as leases, options, contracts, estates, and mortgages may also add complications. For additional information see 23 CFR 710.305 (a) and (b).

The acquisition process can be broken down into two broad categories: Prior to the Public Hearing and after the Finding of Necessity. The following will explain the process in general and act as a cross reference to the other chapters of this manual. Projects where a Public Hearing is not conducted will follow the process identified in paragraph B of this section.

### **A. PRIOR TO THE PUBLIC HEARING AND FINDING OF NECESSITY**

During this period, a project is in the planning/preliminary stage, and the Bureau is engaged in preparing cost estimates for various layout options under consideration. The Acquisition/Relocation and Appraisal sections start examining the various layouts to identify problematic areas and recommend solutions; alternative alignments are typically evaluated as part of the relocation plan (conceptual study). Data is collected for inclusion in the draft environment document if applicable. The Administrator or Assistant Administrator will provide input on layouts and assist in determining which alignment will be presented at the Public Hearing. It is also during this period the public involvement process begins via a Public Officials Meeting and a Public Informational Meeting. When projects are small in scope these two meetings are often combined. At this time a Special Committee or a Commission is determined, depending on whether the State ROW is limited/controlled access, or not respectively (Chapter 2).

A title search is performed by the Land Titles section (Chapter 3). Legal ownership and property lines at the tax map level are determined. When the Bureau of Highway Design or the Bureau of Bridge Design notifies the Assistant Administrator that plans and environmental documents have been prepared, the Public Hearing date is determined and arrangements are made with local officials. A "Notice of Public Hearing" is prepared and published in a local and statewide newspaper as well as sent to affected property owners (Chapter 2). When an impacted area is identified on a property, a relocation plan is prepared in accordance with Federal guidelines outlining proposed construction impacts (Chapter 6). Depending on whether the State ROW is of a class I or II highway or a highway included in the national system of interstate highways or a municipally maintained portion of class II

highway or highway bridge, the Special Committee, Commission or Selectmen, respectively, preside over a Public Hearing conducted by members of the Department.

On occasion it is requested that property be acquired in advance of the normal schedule. These advance acquisitions are usually caused by specific hardships and on Federal Aid projects require prior Federal Highway Administration (FHWA) approval. If NEPA is not complete a separate categorical exclusion is done to document hardship.

## **B. AFTER FINDING OF NECESSITY**

Assuming a finding of necessity is determined and the final environmental document is approved, ROW plans are prepared by the Bureau of Highway Design or the Bureau of Bridge Design using the property data and ownerships furnished by the Land Title section.

The Bureau, upon receipt of the ROW purchase plans will determine just compensation (Chapter 4) for properties impacted. There are two methods used by the Bureau to determine just compensation. In the first, appraisals are developed either by staff or consultant Appraisers. In all cases, appraisals are reviewed and must be approved by staff Review Appraisers. All estimates of just compensation are based on these approved appraisals. The second method of determining just compensation is the use of the Waiver Valuation process, Per 49 CFR Part 24. We utilize staff with real estate experience to establish values on property impacts that are uncomplicated and result in low value. A committee, including the Assistant Administrator, Chief Agent and the Chief Appraiser review the range of values and determine just compensation for each parcel. The amount of just compensation by the waiver process is approved by the Assistant Administrator.

Upon completion and review of the just compensation, the Right-of-Way Agent (Agent), and generally a member of the Commission (or selectmen if town ROW), meet with each owner. They explain the effects of the project on their property and present the written "offer of just compensation" or award for impacts. The Agent also explains and offers any additive payments that the owner may be entitled to, for example due to being displaced from their home or business. They attempt to come to an agreement with each owner and obtain necessary rights. If negotiations fail, they explain the Eminent Domain procedures (Chapter 7).

The amounts to be awarded to each property owner are submitted by the Bureau to the G & C. Amounts under \$5000 are submitted quarterly for information, and for \$5000 and over for approval of G & C ( Chapters 2, 5 & 6). When just compensation is paid, title is taken.



Prior to advertising a construction contract for bids, a Right-of-Way Certificate (ROW Cert) is prepared (per 23 CFR 635.309), certifying that all necessary rights have been acquired in accordance with all Federal laws for the project and listing any restrictions. See Appendix page 245. The Administrator, Chief Appraiser and Assistant Administrator are designated by the Commissioner of the Department as individuals authorized to sign the ROW Cert and other supporting documents. ROW certified for advertising under 23 CFR 635.309 (c) (3) must be in the public interest and FHWA must be notified of exceptional circumstances before contractor is given notice to proceed.

### **1.05 MUNICIPALLY MANAGED PROJECTS**

Transportation projects managed by a municipality are administered by the Bureau of Planning and Community Assistance, which provides guidance on ROW procedures. The Right of Way Bureau provides guidance and support to the Bureau of Planning and Community Assistance Municipalities are responsible to the Department for certifying that all necessary property rights have been acquired in accordance with Federal and State statutes; however the Department is still responsible for Federal (Title 23) compliance. All Federally funded municipally managed projects must acquire ROW in accordance with this, FHWA approved, ROW Manual. Certification per 23 CFR 635.309 (b), (c), and/or (g) and (h), is required prior to the project progressing to construction. Certification is processed through the Assistant Administrator. Either the Administrator or Assistant Administrator must sign off on the ROW Cert (the Department is responsible for the actions/inactions of municipalities for any Title 23 funds administered through the Department).

### **1.06 FUNCTIONAL REPLACEMENT**

When a publicly owned and operated facility is impacted by a Department project, NH RSA 229:31 and United States Code 23 CFR 710.509 allows for functional replacement of the facility. A functional replacement may be offered in lieu of awarding financial damages to the public agency for the depreciated value of the property. This option, if approved by the Department and FHWA, is offered to the owner and it is the owner's decision to what method of compensation to receive. The Department has an approved policy for Functional Replacement. A copy of the policy can be found in the Appendix page 171. The Assistant Administrator along with the Chief Appraiser and Chief Agent carryout this policy.

## **CHAPTER 2 – ADMINISTRATION & RECORDS**

### **2.01 INTRODUCTION**

The Administrative section is the initial public contact for the Bureau. Over all, their responsibilities include budgetary tracking, G&C submissions and tracking, annual inventory, notification of public hearings and meetings to newspapers, land owners and other interested parties, processing of the contemplated awards to property owners or vendors, negotiation paperwork including either Eminent Domain or deed documents, and assisting with relocation documents and payments.

General duties include typing of correspondence, scanning of all material and documents prepared by and for the Bureau to be entered into the Right-of-Way Management System (ROWMS). The Administrative section is responsible for supporting the various sections in the Bureau: the internal bookkeeping, time and expense sheets, mileage sheets, leave records, and requisition of services and supplies.

This section is also responsible for assisting with bids for the sale of state owned land and/or the removal or demolition of buildings and other documents. This process includes advertising in newspapers, preparing bid packages and sending information to the public as requested, preparation of deeds and processing of any payments.

### **2.02 Right-Of-Way Management System (ROWMS)**

The Bureau utilizes a project document storage, retrieval, workflow and payment request processing and record management system, the Right-of-Way Management System. Project records such as public hearing documents and notices to owners are scanned into the ROWMS by the Administrative section. There are two general categories for scanning into and retrieving records from the ROWMS; project records and parcel records.

The project record is a project folder, which contains all general project related correspondence and documents. The following are files within the project record or folder: Hearing (with four sub files: Public Hearing, Public Hearing Correspondence, Necessity Meeting and Necessity Meeting Correspondence); Highway re-establishment; Conceptual Reports, Conference Reports, ROW Cost Estimates, Special Agreements, Correspondence, with 2 sub files: (Appraisal/General); Property Management; Plans; ROW

Certificate; Waiver Documentation, Attorney Client, Misc.; Project Diary and Corridor with 1 sub files (Section). In addition, each project folder has a public hearing and finding of necessity meeting checklist, which gives a quick status of where the project is in the public hearing/notification/finding of necessity process.

The individual records, called parcel folders, contain correspondence pertaining to a specific parcel. Each parcel folder includes any correspondence from or to the Bureau plus a record of any monies awarded to a specific parcel. Awards could be for the acquisition of land, relocation payments, and any payments for legal or recording fees. Parcel folders are stored by scanning and directly filing into the "Attached Files" module of the ROWMS. Information is referenced by project name, project number and parcel number.

## **2.03 ADDRESS NOTIFICATION (PUBLIC HEARINGS) PROCESS**

There are generally three (3) types of Public Hearings (for the transportation related projects) defined by the body chairing the Hearing. They are:

- A) Special Committee Hearing
- B) Highway Layout Commission Hearing
- C) Selectmen Hearing

For projects on State highways, a Special Committee or a Commission must be appointed by the G&C to conduct the Hearing. The Lead person should send the description of the project to the Assistant Administrator as soon as it is developed. The memo transmitting this should state if control of access is proposed. As soon as the project description is available, a petition can be submitted to G&C. This does not have to wait until a hearing date has been established.

### **A. SPECIAL COMMITTEE HEARING**

A Special Committee Hearing is conducted by members of the New Hampshire Executive Council, and is typically chaired by the Councilor within whose District the project is located. This Hearing is to determine the necessity of the layouts for projects where access to the highway is to be controlled or limited, (RSA 230:45).

## **B. HIGHWAY LAYOUT COMMISSION HEARING**

On non-limited access projects, the ROW Administrator or Assistant Administrator forwards, via the Commissioner, a petition and cover letter recommending a Commission and proposed budget to the G&C. The G&C then appoint three (3) individuals to hold the Public Hearing and determine the necessity of the layout (RSA 230:14).

## **C. SELECTMEN HEARING**

A Selectman Hearing or City Council Hearing is conducted by Town/City Officials to address projects proposed for locally owned and maintained highways (RSA 231).

The Hearings Coordinator from the Administrative section coordinates the Public Hearing and all Commission meetings.

Note: The Bureau of Highway Design and Bridge Design set up the Town Officials and Public Informational Meetings, which are separate from the Public Hearing process. The Bureau may occasionally be requested to provide information.

Before sending a Hearing request to the Assistant Administrator, the lead person must make sure the environmental documents will be complete; a draft of the environmental document is acceptable. Prior to the Hearing date, the lead person will circulate a "Request for Public Hearing Checklist" form between the:

- Bureau of Highway Design
  - Survey section
  - Utility section
- Bureau of Bridge Design, if necessary
- Bureau of Environment
- Bureau of Right-of-Way.

The form requires target dates for various tasks to be completed prior to holding the hearing. The form also requests dates for completing the final design and purchasing right-of-way. This form assists in the effort to anticipate the project advertising date.

Once the form has been circulated, the lead person forwards a memo to the Assistant Administrator requesting a public hearing. The request includes the following:

- A suggested hearing date, length of presentation boards required, and anticipated attendance;
- Basic purpose and need for the project and background information concerning how the project was initiated and funding involved;
- Utilities to be notified;
- State and federal agencies and quasi-public interest groups to be notified;
- Identification of houses and businesses to be acquired;
- Type of environmental documentation and whether wetlands or flood plains are impacted;
- A copy of the completed "Request for Public Hearing Checklist".

The Hearings Coordinator will then arrange for the date and location to hold the hearing and prepare notification to officials, other State agencies and affected property owners.

Just prior to sending notices to the newspapers, the Bureau will contact the lead person to confirm that the hearing date is acceptable and that all tasks will be completed as required, including the environmental document.

The Administrator is authorized to sign the Hearing Notice for the Public Hearing. Hearing Notices are published at least twice: once thirty to forty (30-40) days and again fourteen to twenty-one (14-21) days in advance of the hearing. The Notices are published in one statewide daily paper and one local daily newspaper, or a local weekly paper if a daily is not available in the project area.

Department policy requires the draft environmental document be available for public review prior to the hearing. The Notice of Hearing indicates that the environmental documents are available.

In the event that tasks will not be completed as expected, the Bureau will arrange for a new date and notices will be amended. Again, just prior to publications, the Bureau will confirm the date with the lead person.

If a hearing date must be rescheduled, the lead person will send a memo to the Director of Project Development detailing why the date is being rescheduled and include a new suggested date.

Special consideration in terms of lead time must be discussed with the Bureau in the case of hearings to be held as joint Hearings with the Army Corps of Engineers and for projects with a large number of affected property owners.

Special Notices: for projects impacting Municipal land used for conservation or recreational purposes, the Hearing Notice must be posted at least 90 days in advance of the hearing (RSA 4:30-a). The lead person needs to provide a description and acreage of the area to be impacted and mitigation required as part of the Hearing Request memo.

If a condominium is involved in the project, notification to owners must be made 30 days in advance of the hearing. (RSA 230:17)

At each Public Hearing, the Hearings Coordinator makes a socio-economic survey available to each attendee, who is encouraged to complete one anonymously. At the same time, the Hearings Coordinator is responsible for filling out a Title VI/EJ Project Tracking form. After the Public Hearing, these forms are forwarded by the Hearings Coordinator to the Chief Agent. Acting as the Bureau's Title VI/EJ Liaison, the Chief Agent analyzes the completed surveys and compiles demographic data for each project. The data enables the Department to identify impacted residents and communities affected by the Federal-Aid Highway Program. The Title VI/EJ Project Tracking form is later turned over to the Bureau of Highway Design's Administrator.

Oral testimony received at the Hearing is recorded, and written testimony is accepted up to 10 days (with some exceptions) following the Hearing. Oral testimony is transcribed and is generally available in one week. Written testimony is added and is typically available as part of the final Hearing Transcript within 3 weeks after the hearing date.

Upon receipt of the final Hearing Transcript, the Project Manager or lead person shall prepare the Department's written response addressing all meaningful issues contained within the transcript, such as the number and location (as appropriate) of access points for abutters, early or total acquisitions, as well as other key issues and requests. This documentation is compiled by the project manager in the Report of the Commissioner.

The process for developing and finalizing the Report of the Commissioner is as follows:

- Project Manager or lead person writes draft document.

- Draft document is reviewed by appropriate Bureau of Design personnel and the Administrators of the Bureaus of ROW and Environment.
- The lead person revises the document and forwards it to the Commissioner's Office for review by the Assistant Commissioner, Chief Engineer and the Directors of Project Development and Operations for a meeting to formally review all issues and the document's text.
- Following incorporation of further revisions, the document is presented to the Director of Project Development for the Commissioner's signature.

The time frame for completing documentation is dependent on the scope of the project, generally indicated by the number of abutters and/or type of environmental study. For minor projects with no significant issues, documentation is generally completed within 4 weeks. For Non-Environmental Impact Statement (Non-EIS) type projects, documentation should be completed within 6 weeks. For major EIS or large Environmental Assessment (EA) type projects, documentation should be completed within 12 weeks.

Upon receiving a signed Report of the Commissioner, the Bureau will contact the Special Committee/Commission members who conducted the Public Hearing and arrange a Finding of Necessity Meeting. This is to discuss the Department's findings and have the project's layout formally approved. A meeting with the Special Committee, if required, will be attended by personnel from the Commissioner's Office, this Bureau, Design Chiefs as appropriate, and the Project Manager or Lead Person. For Commission Meetings, personnel from the Bureau, Design Chiefs as appropriate, and the Project Manager or Lead Person will attend. Public notice is required 24 hours in advance and posted in two public locations for these meetings pursuant to RSA 91A.

Once approval has been formally obtained (in the form of a signed Report of the Special Committee, Report of the Commission, or Findings of the Selectmen or City Council) the Bureau will forward all documentation to the FHWA (assuming federal funding) for inclusion in materials required for Design approval. Full distribution of these documents is made to the appropriate parties by the Bureau.

The Project Manager or Lead Person responds in writing to those individuals who raised meaningful issues or provided written testimony as part of the Public Hearing process. Issues should be addressed as presented in the "Report of the Commissioner or Resolution of Issues".

As necessary, the Commission for a project will periodically meet so the Bureau may present affected parcels and receive authorization to acquire property by condemnation. These meetings are public and

are noticed pursuant to RSA 91A. The Administrator is authorized to sign the Public Notice for Commission meeting.

### **Modified Public Hearings**

Approved in October 2012 by the NHDOT Assistant Commissioner and the NHDOT Director of Project Development the Modified Hearing Process gives the Department flexibility to hold a Public Hearing on small projects. The project must have minimal landowner impacts, does not require a change in access through the Right of Way and general public support is anticipated. The environmental classification for the project is a Categorical Exclusion (i.e., Federal Highway does not require a Public Hearing). The following is the process as approved.

Project Manager / Lead Person and Assistant Administrator will review the project to determine the feasibility of utilizing this process. The PM / Lead Person will then review the recommendation with the Front Office for approval and recommend a date for the Public Hearing.

Once approved, notation of this and of these dates shall be made on the Hearing Checklist and distributed to all affected Department staff to confirm the Hearing date.

In accordance with current practice the Department will work with the appropriate Executive Councilor to develop prospective Commission members. The names of these proposed Commission members, along with the Petition for Highway Layout, will be brought to the same G&C meeting for approval (current practice).

When scheduling the Public Hearing with the Commission members, the Department will also schedule the Finding of Necessity meeting with them. This should be scheduled to be held approximately 10 to 15 days after the date of the Hearing. The date of the Finding of Necessity meeting must be coordinated with the Project Manager or Lead Person. Coordinating the schedules for both meetings will ensure the availability of the Commission members and establish a firm timeline for preparing and finalizing the minutes of the Hearing, including the resolution of all issues raised.

The Department will meet with the Commission members prior to the Hearing, either as a group or individually. (This discussion can occur at the Commission meeting #1) The intent of this meeting is to explain the Modified Public Hearing process and to emphasize that the responsibility of the Commission members is to determine whether there is a necessity for the project. At this meeting it should be emphasized to the Commission members that the Department will work with all affected property



owners to address the concerns expressed regarding the layout of the proposed project and its impact to each property, to the extent practicable as the design of the project is refined.

The Public Hearing Notice will include a statement that the Commission may make their decision to determine whether there is occasion for the laying out or alteration for the proposed project immediately after the Public Hearing, and that testimony will not be heard during this session. The reference of the additional 10-day comment period will be removed from the Hearing Notice and from the Hearing Handout.

A Finding of Necessity document, the Report of the Commission, will be prepared and offered to the Commission members, after the Public Hearing is concluded, for their consideration and approval. This will occur on the same date of but subsequent to the closing of the Public Hearing. If the Commission finds that there is a Necessity for the project immediately following the hearing, then the scheduled Finding of Necessity meeting will be cancelled.

Notes will be taken and minutes prepared of both the Public Hearing and subsequent Finding of Necessity meetings. Attendance must be recorded of the Finding of Necessity meeting. An audio recording may be made of the Public Hearing, as determined by the Project Manager / Lead Person.

The Bureau of Environment will prepare the Categorical Exclusion, identifying known environmental concerns that have been brought forward during evaluation of the project, including input received at Public Informational meetings.

The Finding of Necessity, however, will be focused only on the necessity of the project, and not on how specific issues will be resolved. The Department's Design presenters will receive input during the Public Hearing (as usual) and will explain that all concerns raised will be evaluated if the project moves forward.

The ROW limits and impacts shown on the Public Hearing Plan must be established based on a design that has been progressed to the point where only minimal changes are anticipated during the final design. This will ensure that the layout as shown at the Hearing, where testimony is gathered, is reasonably accurate. The contents of, any notes taken at the Public Hearing, (or the Report of the Commissioner in a conventional Hearing) are helpful when finalizing the environmental document, etc., after the Hearing process has been completed.

## **2.04 CONTEMPLATED AWARD PROCESS**

The contemplated award process is used by the Bureau to issue just compensation to a property owner or claimant; most awards are submitted to the ROWMS. The awards may also be comprised of out of court settlements from the AG's Office, Findings from the NH Board of Tax and Land Appeals (NHBTLA) and Jury verdicts from the NH Superior Court. Checks requested by the AG's Office are processed by the Administrative staff as a payment voucher.

Once an award is submitted through the ROWMS, it is reviewed and approved electronically by the Chief ROW Agent. The award is then forwarded to the Assistant Administrator or the Administrator for review and final approval. Contemplated awards are then forwarded to the Administrative section for processing.

Awards are processed two different ways depending on award amount; \$5,000 and greater or under \$5,000.

### **A. AWARDS \$5,000 AND GREATER**

The contemplated award list for awards of \$5,000 and over are reviewed and approved by the Administrator or Assistant Administrator and then submitted for the Department's standard G&C resolution review and approval process. Final approval and signature are given by the Commissioner. The Administrative section then submits the list for inclusion in the G&C meeting agenda at the next scheduled meeting.

Once the Bureau receives notification from the Commissioner's office that the contemplated award list has been approved at the G&C meeting, payment vouchers are processed through the ROWMS and the State's financial system. Depending on the G&C meeting schedule and when the award was submitted, it may be six to eight weeks or more until the Bureau receives the check from the State Treasury to be processed.

### **B. AWARDS LESS THAN \$5,000**

Awards of less than \$5,000 are reviewed and approved by the Bureau Administrator or Assistant Administrator. Once approved, a payment voucher is processed through the ROWMS and State Financial system then received from the State Treasury to be processed.

On a quarterly basis, a contemplated award list (created from the ROWMS) is submitted by the Bureau to G&C. All awards i.e., a property owner, claimant or the NHBTLA are included on the list. On April 1, 1998, a process was approved at G&C (Approval Item # 85) allowing this retroactive quarterly submittal of award requests for those under \$5,000.

Checks received from the State Treasury are reviewed by the Department's Bureau of Finance and Contracts. They email the Bureau that checks are available for copying and distribution. The Administrative section reviews the check for accuracy against the original award and scans the copy of the check and supporting documents into the ROWMS, and the original requestor is notified via a system generated email the copy of the check is returned to the original award submitter. When appropriate the Agent goes to Finance and Contracts to sign out the check and deliver it to the property owner or displacee. This is tracked through the ROWMS.

## **2.05 EMINENT DOMAIN (CONDEMNATION) PROCESS**

Condemnation (Chapter 7) proceedings, as part of the Eminent Domain process, begin when properly cannot be acquired through amicable negotiations (Chapter 5). A Notice of Offer to Purchase (NOO) is sent to all condemnees and appropriate town/city tax collector(s) by certified mail. The NOO expires 30 days from the date of mailing. The Eminent Domain process is initiated pursuant to RSA 198:-A.

If the NOO is not accepted within the 30-day time period, the Department may commence with filing a condemnation for the rights needed. Several things must happen to implement a condemnation filing. First, a Declaration of Taking (Declaration), a Notice of Condemnation (NOC) and the deposit of Just Compensation are assembled and entered into the ROWMS for tracking. They are then delivered to the Attorney General's (AG) office.

Next the Assistant AG assigned to the case files the Declaration and deposits the Just Compensation with the clerk of the NHBTLA. When the NHBTLA accepts the filing, the property described in the Declaration becomes the property of the State of New Hampshire. Within 48 hours of the filing the Declaration at the NHBTLA, the assigned Assistant AG will coordinate the recording of the NOC at the appropriate County Registry(s). Lastly, the NHBTLA sends copies for all in-state addresses listed on the Declaration of Taking to the Sheriff's Office of the appropriate county for them to serve. In the case of an out-of-state address serve, the paperwork is forwarded back to the Bureau to send out by certified mail. All appropriate originals and copies of documentation for each parcel are scanned in the ROWMS as a record of the condemnation.

## **A. UNCLAIMED NOTICES OF OFFER**

The NOO is prepared and delivered by certified mail to all property owners, interested parties and appropriate town/city tax collector(s). The NOO expires 30 days from the day of mailing. If a certified card is not returned to the Bureau, the AG's Office is notified for further instructions.

Generally, in accordance with the provisions of RSA 498-A:4, IV (a), if the property owner is unknown or his/her whereabouts is unknown or the NOO is unclaimed, the NOO should be published once in a newspaper of general circulation in the county in which the property is situated.

## **2.06 SPECIAL ACQUISITIONS**

Certain Controlling Agencies may elect to utilize their own authority and procedures for effecting land transfers. When land transfers occur under the authority of other Federal agency, FHWA would normally not be involved. If these authorities are in addition to the procedures involving the FHWA or are for land for a Federal-aid project, the transfer must be in a manner acceptable to the FHWA. The FHWA is available to assist.

## **CHAPTER 3 – LAND TITLES**

### **3.01 ORGANIZATION AND FUNCTION**

#### **A. ORGANIZATION**

The Land Titles Section consists of a Licensed Land Surveyor, Land Surveying Technicians, an Engineering Technician, a Land Titles Supervisor, and several Title Abstractors.

#### **B. FUNCTION**

The Land Titles section function is to determine the limits of the State of New Hampshire's existing fee ownership and easement rights in the highway ROW and railroad ROW. The limits or extents of the ROW need to be determined in order to keep proposed work within the State's stewardship or to identify the areas of impacts of the abutting parcels. In areas with impacts to abutting parcels a full title abstract for each impacted parcel is conducted to NH Bar Association Title Examination Standards (NHBATES) prior to the Public Hearing, purchase or condemnation.

### **3.02 PROCESS**

#### **A. ABSTRACTING PLAN REQUEST**

The ROW Land Title process is outlined in a series of four levels.

Level 1 is an initial project review by the design team with the Land Titles Section and is completed prior to the survey request. This review will determine how the existing ROW was established and the level of survey work needed to establish the ROW limits. This review will also serve to provide the project team with an understanding of the limitations within the project area. A boundary survey will be conducted to NH Land Surveyors Association (NHLA) standards to locate bounds, iron pins, stone walls and any other features that will assist in defining the ROW boundary along the project route whenever possible.

Level 2 will accurately set the existing ROW limits. The ROW limits will be defined by Land Titles based upon the boundary survey data, past record projects, returns of layout, and ROW alignments

as applicable. This level is completed in order to identify potential areas of impacts beyond the State's ownership and easement rights. Level 2 information is typically adequate for Public Officials and Public Informational meetings. Land Titles staff will label each parcel with tax map/lot number, acreage, current owners and book/page reference.

Level 3 develops an Abstract of Title for all impacted parcels. Title Abstractors determine property ownership along with other interested parties, easement holders, mortgage holders, lien holders etc. of the abutting parcels for the proper notification prior to public hearing and for the acquisitions of property and easements. A plan depicting project impacts must be provided by the Design Team with all abstract level 3 requests. Parcel numbers are assigned to impacted parcels in level 3.

Level 4 updates the title abstracting to find any changes in property owners, mortgage holders etc. This is required before public hearing notification and prior to ROW layout plan production and property acquisition. A plan depicting project impacts must be provided with all update requests. This level is also used to request investigation of ROW plan concerns or problems.

## **B. SURVEY REQUEST**

Land Titles personnel will acquire property owner information utilizing the appropriate municipality's tax records for all properties within the scope of work identified on the Survey Request. This information should include each property identified by the tax map and lot number, current owner name and address, lot size and deed reference when available.

## **C. TITLE RESEARCH**

The purpose of Title Research is to identify all aspects of each individual property that will need to be addressed in order for the Department to obtain clear title of ownership. To do this, the Land Title Abstractor will compile a report for each impacted property identified by the Design Team adhering to the NH Bar Association Title Examination Standards. This process confirms the property owner through establishment of the chain of title as well as identifying other encumbrances of record such as mortgages, easements, liens, leases, etc. The Abstractor will also review all survey plans on record within the project area to help identify boundary limits of individual properties. The majority of this research is done at the County Registry of Deeds. Other areas of research may include Probate Courts, which are used to verify passage of title through inheritance. A review of Superior Court records may be necessary for cases involving Quiet title action, boundary litigation or divorce.

Title Update: As the project develops through the design phase, title updates will be necessary. The title update will consist of identifying any new owners of record, encumbrances and / or lot configuration changes due to subdivisions, lot line adjustments or boundary line agreements that have been recorded after the previous search period of each impacted parcel title report.

#### **D. EXISTING ROW PLAN DEVELOPMENT**

The creation of the existing ROW plan begins with the Level 2 ROW plan request. At this level, boundary survey detail has been acquired as outlined in the Level 1 review and the survey data processed for use. A boundary plan can now be developed in accordance with the Department CADD standards. This is identified as an ERL (existing ROW lines) file. The ERL file shows the limits of the existing ROW and related easements. The ROW will now be set and accurately defined based on past project records and survey detail.

In areas where there were past highway layouts and / or a return of layout, property was acquired using offsets to the highway alignment. These past highway alignments are now referred to as ROW alignments. Whenever a project is proposed in an area where there are ROW alignments, the ROW alignment is recreated and tied into the current project in order to determine the limits of the ROW boundaries.

The existing ROW text plan, identified as an ERT file in Department CADD standards, will also be created. The properties abutting the ROW will be identified with current owner information based on the municipality's tax records. Each property should be labeled with tax map/lot number, acreage, current owner and book/page reference. This completes the level 2 plan development, and is identified as the tax map level because the ownerships and property interests beyond the ROW line were collected from the Town/City tax records. However, because the ROW boundary line is accurately defined, the design team can begin determining the potential areas of impacts for a level 3 submission.

Once the areas of impacts are known, the level 3 title abstracting of impacted parcels can begin. The title abstract determines the property ownership along with any other interested parties, mortgage holders, lien holders, etc. of the abutting parcels. This is required for the proper notification prior to a public hearing, and for acquisitions of property and easements. If the scope of project changes resulting in additional impacts, this level will need to be redone. Title abstracts will be updated as

part of a Level 4 request whenever there are known changes in ownership, prior to the public hearing, ROW plan production and acquisition.

#### **E. PUBLIC OFFICIALS/PUBLIC INFORMATIONAL MEETING**

As a public relations effort the Department invites public input on the proposed project. At the Public Officials/Public Information meetings the scope of the proposed project becomes more definitive. The municipal officials are invited to comment on the project to help to insure that their goals are achieved. The landowners are also invited to comment at this forum to make sure their concerns are taken into consideration. In conjunction with this effort a list of landowners is compiled for the Public Officials/Public Informational meetings. After the Public Officials/Public Informational meeting a plan is created showing the layout and a refined scope of work with proposed impacts on the properties along the proposed route. This information is used to produce an accurate Hearing Presentation Plan showing the proposed layout and property impacts.

#### **F. PREPARATION FOR PUBLIC HEARING**

The Land Titles Abstractors are responsible for entering all of the title abstracting into the ROWMS. This facilitates the production of the Public Hearing notification list. This list includes the landowners, mortgage holders, leases, lien holders and any entity that has any legal right to the impacted properties. When this process is complete the Land Titles office staff will assign parcel numbers to impacted parcels shown on the ROW layout plans. This update may also include change in ownership, lot configuration, identification of additional easements of record and updated book and page references. This information is used to produce an accurate Public Hearing Plan.

At this time the Abstractor is identifying anyone who has a legal interest in the impacted properties and a list is generated in the ROWMS. This list is used to create a certified list for notification for the Public Hearing for highway layout as required under RSA 230:19.

#### **G. PUBLIC HEARING**

The Special Committee (for limited access ROW projects) or the Commission takes comments from the landowners and other groups concerned with the project into consideration. The Department records the hearing and a transcript is produced to insure that all comments and concerns are accurately recorded and addressed. The Special Committee/Commission determines whether there is an occasion for the laying out or alteration to the roadway. The comments and concerns raised at



the Public Hearing are passed on to the design group or groups responsible for the project and, if feasible, incorporate these recommendations into the design.

#### **H. ROW REGISTRY PLANS**

The ROW plans will define the areas of impacts based on the approved slope and drain submission. The ROW Plans are developed showing all necessary property acquisitions required for the layout and construction of the highway project. The plans will show the limits needed for the ROW and all permanent and temporary easements. The impacts are listed on the summary included on each sheet. A separate set of plans, the registry plans, and show only the necessary detail required to accurately show the property acquired by the State as required by RSA 230:32. All registry plans must meet the requirements of the Plat Law RSA 478:1-a in order to be recorded.

#### **I. PURCHASE PROPERTY RIGHTS**

At this time the property acquisition procedure begins. The Agents and Appraisers are working with abstracts less than 6 months old and initiate the contact with individual landowners along the project route. As negotiations precede Land Titles is frequently asked to update titles or retrieve additional information from the registries to verify mortgage information (refinancing, mortgage discharges, bank ownership changes etc.) and any recent subdivision or survey plans. It is common for landowners to offer additional information during this process. The Land Titles section will verify what the landowner has presented, and that it has been filed with the appropriate agencies as an official record.

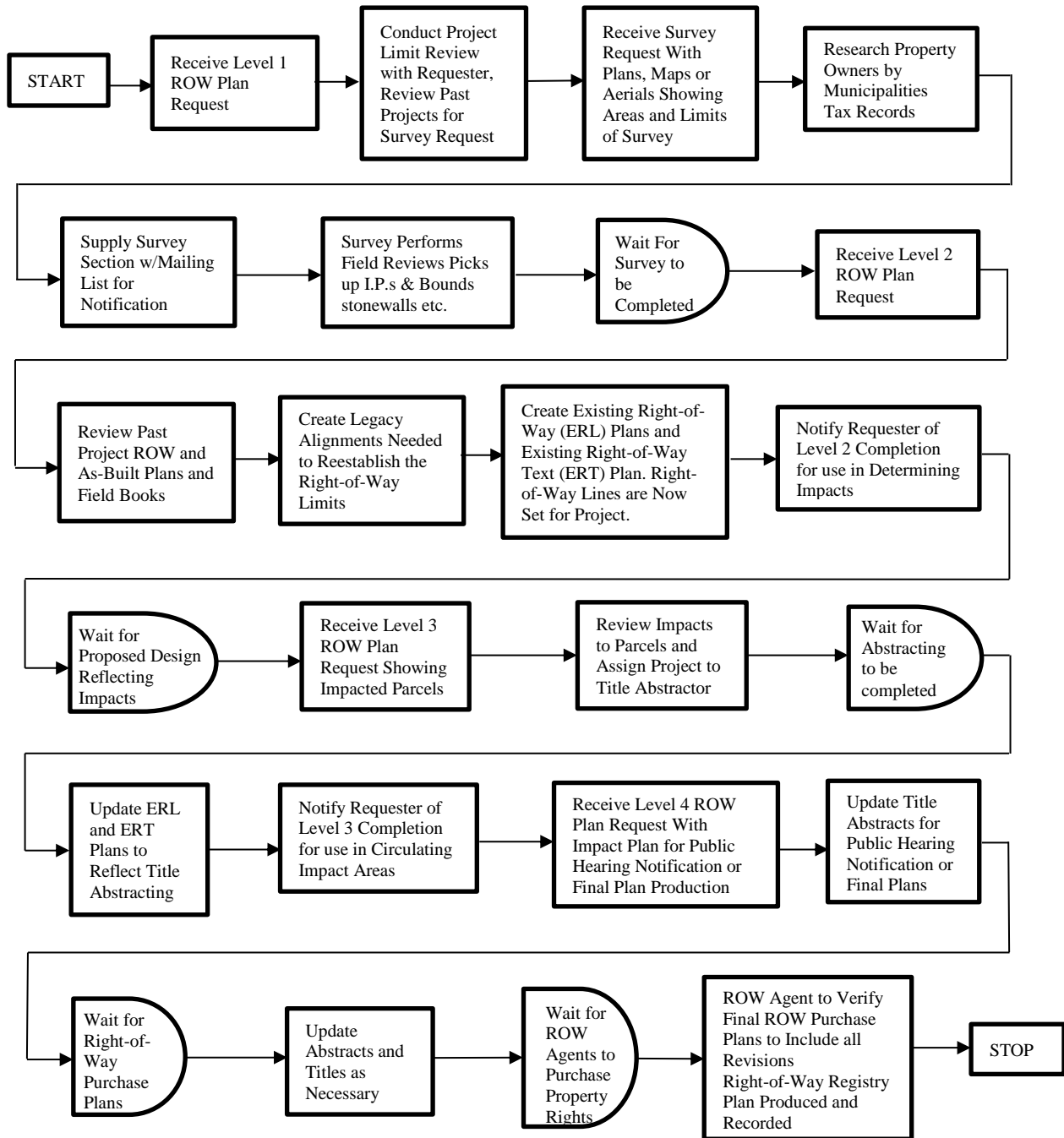
#### **J. ROW DETAIL PLANS**

On smaller programmatic projects a determination with the Assistant Administrator may be made to amend an existing record plan. Occasionally a programmatic project may require a "spot" impact that upon reviewing with the Assistant Administrator may only require an exhibit or the property impact. This exhibit is added to the record plans.

Originally referred to as purchase plans, the ROW detail plans will be an overlay on the registry plan set along with added detail showing items not included on the registry plan checklist. The detail plan is only used on certain projects as determined by the ROW Bureau. The plans are used to help the owner understand the impacts proposed on their property. In some instances the detail plan may be replaced by the general plan for the project. ROW projects with minimal impacts usually do not

need additional detail plans as the general project plans are sufficient. The Assistant Administrator will determine if there is a need for detail plans.

**3.03 LAND TITLES PROCESS FLOW CHART**



## **CHAPTER 4 - APPRAISING**

### **4.01 OVERVIEW: THE NEED FOR AN APPRAISAL**

The Eminent Domain Procedure Act, New Hampshire RSA 498-A: 4 II (a) provides that "the condemner shall have an impartial, qualified Appraiser make at least one appraisal of all property proposed to be acquired". The Bureau of ROW (the Bureau) is responsible for providing well- documented and credibly supported appraisals to owners of property impacted by highway projects under the jurisdiction of the Department and FHWA.

49 CFR Part 24.102(c)(2)(ii), "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs", as amended, states that before the initiation of negotiations the real property to be acquired shall be appraised, unless the acquiring agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated "value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data".

All impacted parcels will be appraised if there is potential for condemnation. The Agent may make a nominal offer based on a Waiver Valuation. If the property owner accepts the nominal offer the appraisal request will be terminated. Appraisals are not required for parcels not subject to condemnation unless compensation exceeds \$10,000. Even though the appraisal is waived, the Department must establish and offer an amount it believes represents just compensation for the property to be acquired following the Waiver Valuation process (see section 4.62). The Appraisal Section will provide support for the amount to be offered, which may include sales and/or other market information in the project area.

### **4.02 APPRAISER QUALIFICATIONS**

49 CFR Part 24 requires that if a detailed appraisal is necessary, and the Agency employs a contract Appraiser to perform the appraisal, such Appraiser must be licensed or certified in accordance with Title XI of Financial Institution Reform, Recovery and Enforcement Act of 1989. The aforesaid regulation does not apply to salaried employees of any agency of the State Government or local political subdivisions. However, it is a requirement that all Appraiser IIIs are Certified Residential Appraisers, and all Appraiser

IVs, Appraisal Supervisors and the Chief ROW Appraiser maintain and hold a Certified General Appraiser certification with the State of New Hampshire Appraiser Board.

Minimum qualifications for all management and staff Appraiser positions are codified by their Job Classification Specifications and Supplemental Job Descriptions in the Personnel files of the Department.

#### **4.03 APPRAISER SELECTION PROCEDURES**

At the time a project or appraisal is assigned to the Appraisal Office, the Chief Appraiser makes a determination whether to employ a fee Appraiser or use a staff Appraiser. This determination is predicated on the workload and complexity of the assignment. Fee Appraisers are employed by the Department on a competitive "bidding" process. The Chief Appraiser solicits proposals from approved fee Appraisers to appraise selected parcels or projects in a timely manner.

Fee Appraisers' names are placed on a roster of "qualified appraisers" by the Chief Appraiser based on their past record of performing satisfactory appraisal work for the Department, or by the fee Appraiser furnishing samples of his/her work done of a similar nature. Those on the roster are then invited to qualify for the "Statewide Contract" by providing proof of the proper insurances and workers compensation coverage. It is from this list that proposals are solicited.

Written proposals of fee and time needed to complete the assignment are usually obtained from three or more qualified Appraisers. In some instances proposals are solicited from less than three Appraisers. Some reasons for this include, but are not limited to, availability of fee Appraisers to meet Department time schedule, the Appraiser's unique knowledge concerning appraisal problems or the Appraiser's geographical location in relation to the site of appraisal assignment.

Request for proposals (RFP) will contain the following minimum Scope of Work (This is a FHWA required written statement in every RFP that describes what the Department and the Appraiser each are to do, and what is the mutually expected outcome of the assignment.):

Appraisal reports must document:

- The property right(s) to be acquired, e.g., fee simple, easement, etc.,
- The value being appraised (usually fair market value), and its definition

- Appraised as if free and clear of contamination (or as specified),
- The date of the appraisal report and the date of valuation,
- A realty/personalty report is required per 49 CFR Part 24. 103(a)(2)(i),
- The known and observed encumbrances, if any,
- Title information,
- Location,
- Zoning,
- Present use,
- At least a 5 year sales history of the property, and
- A 3 year sales history of comparable sales used.

The assignment's scope of work should be prepared with input from both the consulting Appraiser and the Department.

The selection of those to be solicited is based on the Appraiser's history of effectively expressing and supporting their estimate of market value in a timely fashion as determined through the proper use of appraisal processes. Also reviewed is the Appraisers experience and effectiveness as an expert witness in judicial proceedings.

After receipt of the proposals the Chief Appraiser determines which Appraiser is to be retained based on the low bid criteria, and the Appraiser selected is notified in writing.

The administrative details concerning the start, progress, completion, payment, etc. of the services to be performed as per the Statewide Contract are the responsibility of the Chief Appraiser. The technical details as outlined by the specifications made a part of the contract are to be handled by the assigned Review Appraiser.

The Chief Appraiser will abide by the current contracts in the selection, and payment of consultant fee Appraisers, and processing of their work product.

The Review Appraiser records a "performance review" regarding the Consultants work product in the ROWMS. This data is reviewed by the Chief Appraiser, filed and used as a future reference when selecting Consultants.

A rare situation may arise where neither a ROW staff Appraiser, nor a fee Appraiser on the approved Appraiser list has the experience and/or competence to appraise the property impacted by the project. In those situations, the Chief Appraiser, with concurrence from the Bureau Administrator and Project Manager, will arrange to obtain competitive bids from outside firms having the required experience and expertise.

#### **4.04 CONFLICT OF INTEREST**

Neither the Appraiser nor the Review Appraiser shall have any interest, direct or indirect, in the real property being appraised for the Department or any local political subdivision that would in any way conflict with the preparation or review of the appraisal.

Compensation for making an appraisal shall not be based on the amount of the valuation.

#### **4.05 MATERIALS FURNISHED APPRAISER**

The Appraiser shall be furnished a complete set of ROW purchase plans detailing the acquisitions proposed from each property. If available, the Appraiser shall also receive a set of cross-sections together with a relocation advisory, hearing transcript and copies of any special agreements affecting the properties to be appraised. Finally, the Appraiser will be given an up to date property abstract detailing the ownership history for the particular parcel(s) (Chapter 3).

#### **4.06 OPPORTUNITY TO ACCOMPANY APPRAISER**

49 CFR Part 24 the Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs, commonly referred to as the Uniform Act or URA requires that the property owner, or the owner's designated representative, be given an opportunity to accompany the Appraiser during the Appraiser's inspection of the property.

The invitation to the property owner should be documented in the ROWMS, in writing, and with sufficient lead time so as to allow the owner to arrange to be there or to request an alternative time. The Appraiser must state in the appraisal report the date of inspection and the names of those who participated. The report should also note if the owner declined to accept the invitation.

#### **4.07 CONFIDENTIALITY**

Compliance with the confidentiality provisions of the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) is required. Per 49 CFR 24.103 (a), the URA is intended to be consistent with USPAP.

The signed certification in the report must contain a statement(s) similar in content to the following: "I have not revealed the findings and results of this appraisal to anyone other than the proper officials of the Department of Transportation of the State of New Hampshire or officials of the Federal Highway Administration and I will not do so until so authorized by State officials, or until I am either required to do so by due process of law or until I am released of this obligation by having publicly testified as to such findings."

#### **4.08 NUMBER OF APPRAISALS**

One appraisal report is required except when the Chief Appraiser or the ROW Team, consisting of the Chief Appraiser, Assistant Administrator, and the ROW Bureau Administrator determines otherwise. Multiple appraisals may be necessary if it is a complicated appraisal or if the estimate of damages is difficult to assess.

#### **4.09 MORE THAN ONE APPRAISAL**

Multiple reports may be required and/or commissioned if:

- Prior report(s) cannot be brought into compliance with appraisal standards or Department specifications during the Review process;
- In the judgment of the Chief Appraiser, the degree of difficulty warrants it; or
- The disparity between prior reports is too great to be reconciled.



- Estimated damages are equal to or greater than \$1,000,000

#### **4.10 FAMILIARITY WITH PLANS**

When assigned to a project where there are partial acquisitions, it is essential that the Appraiser become thoroughly familiar with construction plans to determine the relation of the project improvements to the remainder of the properties involved. On new locations or when the grade line of the existing road is changed through reconstruction, the Appraiser should be aware of the cut or fill along the properties being appraised to judge the effect of new construction or of changes in grade. Other items to be noted include the limits of construction and ROW requirements as they may affect improvements, landscaping, and operations. The Appraiser should check the means of access provided for each property and where excessive damages are anticipated because of access restrictions or for any other reason he/she should discuss the matter with the Chief Appraiser and/or the Appraisal Reviewer. The Appraiser should make no assumptions as to access or other plan provisions without written instructions from the client, but rather clarify any questionable situation prior to proceeding with the appraisal of the property involved. The appraisal must be based on the plans as provided or upon approved changes.

The Appraiser should ask the property owner about the possible existence of underground facilities such as pipe lines, water lines, septic tanks, drain tile, sanitary sewers, etc. Estimates of cost should be obtained for any necessary adjustment to privately owned facilities.

#### **4.11 OWNERSHIP CHANGES**

In the course of the appraisal work, the Appraiser may discover ownerships at variance with those shown on the ROW plans. This may be due to a time lapse, sale of a particular property, or a portion of a property, or for some other reason. When necessary the Appraiser should request an updated title abstract from the Land Titles Section and an updated set of plans.

#### **4.12 SPECIALTY REPORTS**

A detailed appraisal may include the findings of a specialty report. A specialty report is a study of some aspect of the property that does not normally fall within the expertise of the real estate Appraiser.

These include but are not limited to, machinery or equipment, mineral rights, forestation and engineering details, especially those related to cost to cure.

The specialty reports will be commissioned by the Appraiser with the concurrence and approval of the Bureau's Chief Appraiser.

#### **4.13 ALTERNATE APPRAISALS**

Additional estimates of value should be prepared by the Appraiser in those situations involving remainders of properties acquired for ROW.

##### **A. UNECONOMIC REMAINDER**

In the design of highway right-of-way limits an uneconomic remnant may be created. The URA requires that an "offer to purchase" such remnants must be made. The owner need not sell such remnant so the appraisal should express both alternatives.

##### **B. LANDLOCKED REMAINDER**

Normally these situations will be found and set out by the Project Designer. He/she will ask for an estimate of the value of the remainder to be weighed against the cost of providing access. If the cost of access exceeds the value of the land or damage arising from lack of access the Department has the authority to acquire the landlocked parcel. In those instances where a landlocked parcel is discovered by the Appraiser, the Design Team shall be advised.

##### **C. IMPROVEMENTS IN TAKING**

In many instances, improvements located within the taking can be relocated rather than acquired. However an "offer to purchase" must be made based on the appraised value. The owner may elect to repurchase the improvement at the Department's salvage value and remove it from the proposed ROW at their own expense.

##### **D. CARVE OUTS**

"Carve-out" is a term commonly used to describe the method for determining what portion of property occupied by a residential owner is to be used in computing a replacement housing

payment. The regulations seek to avoid penalizing a person who is situated on a site that is either larger than typical for residential use or is actually occupied and used for other purposes. If the excess land area (i.e., excess to what is typical for residential use in the area) is not "carved out" of the acquisition price when computing the replacement housing payment, then the displacee is penalized by contributing the value of this excess land toward the purchase of a comparable replacement dwelling and site.

There are three basic elements required in performing a carve-out calculation:

Determine whether the subject property includes area (land and/or improvements) that is excess to the owner-occupant's residential use.

Survey the area to determine what constitutes a tract that is typical in size for residential use in the area.

When applying the typical tract to the subject, use only that portion of the total acquisition price (land, improvements, damages) which represents the dwelling and typical tract.

#### **4.14 PROPERTY OWNER NOTIFICATION**

All property owners of parcels requiring appraisals will be initially notified by a Department representative to explain the project, including basic rights, and that they will be contacted to set up an appointment to inspect their property. The letter will explain the Appraiser's responsibility to evaluate the impacts the proposed acquisition will have on their property and attempt to answer any questions they may have. It will include information contained in section 4.06 of this manual, specifically the right to accompany the Appraiser during the property inspection. The owner is to be notified, in accordance with RSA 498-A:4(I), that the Department does not represent the owner and they may want to obtain advice from independent counsel.

The letter will also inform them that RSA 498-A:4(II)(b) provides property owners reimbursement; up to a maximum of \$1,000.00 to hire their own Appraiser to value impacts resulting from State projects.

The following requirements must be incorporated into any appraisal supplied by the property owner to qualify for cost reimbursement from the State:

1. The Appraiser completing the report must be either a Licensed or Certified General Appraiser by the State of New Hampshire and should have partial acquisition condemnation appraisal experience.
2. The appraisal must conform to the applicable portions of the most recent editions of the US Dept. of Transportation 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs (1970) and "Uniform Standards of Professional Appraisal Practice" (USPAP), and the development requirements of the "Uniform Appraisal Standards for Federal Land Acquisitions" UASFLA. Restricted appraisal reports are not acceptable.
3. The appraisal must value the impacts of the proposed acquisitions the road improvements have on the market value of the particular parcel or property disregarding any project influence.

#### **4.15 VALUATION OF TENANT-OWNED IMPROVEMENTS / FURNISHING, FIXTURES & EQUIPMENT (FF&E)**

FHWA-HEP-05-030, Acquiring Real Property for Federal and Federal-aid Programs and Projects gives the following guidance on the valuation of tenant-owned improvements:

"Sometimes tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. If, under State law, the improvements are considered to be real property, the agency must make an offer to the to acquire these improvements as real property.

In order to be compensated for these improvements, the tenant-owner must assign, transfer, and release to the agency all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements.

For an improvement, just compensation is the amount that the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever amount is greater."

Complete acquisitions from businesses may include some property such as furniture, fixtures, and equipment plausibly classified as either personalty or realty. In such cases, Senior Appraisal and Relocation Staff from the department (or senior ROW consultant's staff working on behalf of the

department) will contact the fee simple property owner and set up an appointment to jointly inspect the subject property. This process should be initiated prior to the appraisal procurement process.

The intent of the inspection is to compile a list of personalty and realty items identified during the inspection. The purpose of this process is to reduce the possibility of error or miscommunication among the Appraiser and Agent, ensure double-payments do not occur and displacees receive all compensation and benefits to which they are entitled. It is also hoped that this process will expedite both the appraisal and relocation processes and may also foster goodwill through displacee involvement.

If tenants will be displaced, the fee owner should be asked for permission to invite the tenant(s) along on the inspection. If tenant participation is refused, discussion of personalty / realty items with the tenant will occur when negotiations are initiated.

The list of personalty / realty items will be specifically used:

1. for inclusion in the appraisal bid package for the subject property
2. for inclusion in the Agency's appraisal of the property
3. for inclusion in the property relocation file
4. to provide a copy to the displacee

#### **4.16 REALTY AND PERSONALTY DETERMINATION**

The classification of equipment and fixtures as realty or personalty is necessary so that the Appraiser can list and evaluate each piece of equipment included as realty . Stated in the simplest terms but requiring frequent interpretation, equipment should be considered as part of the realty by reason of its annexation to real property and/or adaptation to continuing use in connection with the realty. Equipment not falling under this category is considered personalty.

In appraising commercial, industrial, and special use properties it is essential that the determinations of realty and personalty be made at an early date so the Appraiser may list and evaluate all realty items. In order to accomplish this early determination the Appraiser, and Relocation Specialist should meet with the owner or the owner's designated representative to go over the entire property and catalogue all pieces of equipment and fixtures. The appraisal shall include all realty and the offer to the owner shall specify all equipment covered by the offer.

#### **4.17 JUST COMPENSATION**

Just compensation is the price the Department must pay to acquire private property. The ROW Bureau Administrator, Chief ROW Appraiser, or Assistant Administrator must approve the estimate of just compensation to be offered to the property owner for the property and rights acquired. That amount may not be less than the amount established in the approved appraisal report as the market value for the acquisitions. If the property owner and the agency cannot agree on the amount of just compensation to be paid for the acquisitions needed, and it becomes necessary for the Department to use the Eminent Domain process, the amount determined by the court will be the just compensation for the acquisitions.

#### **4.18 APPRAISAL RELATED DEFINITIONS**

Market Value: "Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of value, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property." -The Uniform Appraisal Standards for Federal Land Acquisitions (2016), section 1.2.4.

Appraisal: "The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information." - 49 CFR Part 24.2(a)(3)

For additional definitions please refer to the USPAP.

#### **4.19 RIGHT-OF-WAY MANAGEMENT SYSTEM, APPRAISAL SECTION**

The ROW Appraisal Section, after receiving ROW purchase plans, has the following data entry responsibilities for inputting data into the ROWMS:

- Select project and assign the applicable construction project
- Select parcels with impacts

- Area of Impact enter fee and easement areas
- Property type, is property duplicated in another construction project, complete or partial acquisition, building taken or not, assign associated parcel or parcels if applicable
- Carve out or not, improved or not, requesting office, requested by, report to, type of appraisal, reason for appraisal
- Fee Appraiser or staff, appraisal firm and Appraiser (if fee Appraiser), Appraiser Supervisor and Appraiser (if staff), date to supervisor, date to Appraiser, estimated date of completion, if fee Appraiser RFP appraisal fee and schedule
- Estimated values, date received, before value, after value, diminution in value, allocation of damages - land acquisition, easement value, improvement taken value, severance, costs to cure, and total damages
- Reviewer - fee reviewer, date to review, review firm, Review Appraiser, fee quote. In- house reviewer, date to review, supervisor, reviewer, date to supervisor, date to reviewer, estimated date of completion
- Final Values, effective date of appraisal, before value, after value, diminution, allocation of damages - land acquisition, easement value, improvement taken value, severance, costs to cure, and total damages
- Appraisal status, active, reassigned to a different Appraiser, hold, terminate, date, office, by, reason
- Performance (contract Appraisers only) assignment complexity, methodology, descriptive material, response quality, response time, professionalism, recommendations, comments.
- Copies of all correspondence, completed forms, appraisals and photographs will be placed in the appropriate folder in the attached files section of the ROWMS.

#### **4.20 OPINION OF VALUE**

The opinion of value is prepared in the form of an appraisal or valuation range that should contain the facts and reasons considered by the Appraiser in developing the value conclusion. For reference, the general appraisal elements considered essential to an adequately supported opinion of value are enumerated in 49 CFR Part 24.103.

#### **4.21 DETERMINATION OF THE LARGER PARCEL**

Determination of the larger parcel must be in accordance with the guidelines set forth in the current Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). The Appraiser's analysis that led to the larger parcel determination and the determination itself must both be reported. Concurrence of the larger parcel issue should be acknowledged by the Chief ROW Appraiser and the Review Appraiser.

#### **4.22 HIGHEST AND BEST USE**

In estimating the damages to the property resulting from the acquisitions, the owner is not limited to the value of the property for the purposes for which it was actually being used. The valuation of property should be based upon its most profitable legal use. Any reasonable future use to which the land might be developed may be considered in arriving at the present market value. The concluded highest and best use must not be speculative or conjectural; it must be reasonably probable and there is a need or market demand for it. The Appraiser's analysis that led to the highest and best use conclusion and that conclusion must both be reported.

Highest and best use, briefly defined, is the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest market value. A property's highest and best use is based on the following four criteria:

1. The property must be physically adaptable to such use.
2. The property should be legally available for such use.
3. The proposed highest and best use should be financially feasible.
4. The proposed highest and best use should be maximally productive.

#### **4.23 REASONS FOR DOCUMENTATION OF APPRAISALS**

In view of the fact that almost all appraisal assignments present a varying appraisal situation, it is impractical to present a set of rules that will result in an appraisal report that is understandable to everyone in every instance. Each appraisal must be a complete entity in itself and should require no additional documentation or explanation to support the values assigned.



The appraisal report should be composed so that the client and intended users may read the report, examine the photographs and plats, and conclude with a thorough understanding of the property and of the reasoning of the Appraiser. If the report does not lead to such understanding, then the report is either ambiguous or deficient in content.

The necessity for detailed documentation in an appraisal is readily apparent considering the intended use and users of the appraisal report. These uses include:

- Review Appraiser concurrence on final value conclusion(s),
- Inform the Agent of all pertinent facts prior to negotiation with the property owner.
- Provide convincing evidence of value for presentation to the owner by the negotiator.
- Advise the Bureau of all pertinent facts in the event of condemnation and withstand cross-examination.
- When Federal participation is expected in the cost of ROW, the reports are subject to inspection and review by the Federal Highway Administration Right-of-Way officers and auditors.

#### **4.24 DOCUMENTATION OF APPRAISALS**

Proper documentation provides the necessary ownership record, location and description of property, purpose of appraisal, and proper methods in approaches to value supported by computations used, complete market data for comparable, identifying photographs, property sketches, and conclusions with justification therefore, as outlined in 49 CFR Part 24.103.

Appraisals shall be independently prepared, typewritten, dated, and signed by the individual making the appraisal.

Each appraisal report shall contain an Appraiser's certification to the URA requirements of 49 CFR Part 24.103 and any supplemental requirements; incorporating as a minimum the requirements in Standards Rule 2-3 of the Uniform Standards of Professional Appraisal Practice. A new certificate shall be prepared where there is a change in the appraisal report that affects the estimate of value or changes the date of valuation.

In estimating the market value for the acquisition of real property, appraisal reports shall disregard any decrease or increase in the market value of the real property 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.

Documentation of estimates of value (either the before, the after, or the acquisition value), of damages, and/or of benefits shall be by the most applicable and appropriate means available. If support for the after value by the usual methods of market or income data or indications from severance damage studies is not feasible, the Appraiser shall so state and explain why it is not feasible. In such instances, the Appraiser must then fully explain the reasoning for the after value estimate.

Computations used to develop the various approaches to value and elements of damage shall be shown in the appraisal report.

Comparable sales shall be verified with one of the principals involved in the sale or with their authorized representative. Date of sale, names of grantee, grantor, legal description, area, types of improvements, consideration paid, motive of seller and purchaser, unusual financing arrangements and photographs of significant features of the sale shall all be made a part of the appraisal report.

The owner of a subject tract or their designated representative shall be given an opportunity to accompany the Appraiser during the inspection of the subject property. In those instances where the property is owned by an "absentee owner" every effort must be made to contact this person, usually by mail, for either an appointment at a reasonable time, or an appointment and inspection with a legal representative. A "log" of these contacts, inspections, etc. must be made a part of the appraisal. The date the owner was contacted and their telephone number should be included in the appraisal.

#### **4.25 PARTIAL ACQUISITION APPRAISALS**

If the proposed ROW impacts to the subject property are measurable by way of market analysis the Appraiser will complete an appraisal of the property before the acquisition and a second appraisal, as though after the acquisition. Since the state of New Hampshire is a "federal rule" state damages are estimated by the difference between the appraisals of the subject before and after the proposed acquisition. Partial acquisitions can be some of the most challenging appraisal assignments an Appraiser can have. The appraisal of the before value must not reflect any influence the proposed project will have

on value. The after valuation should reflect any influence the proposed project will have on value. It is important that the Appraiser correctly analyze the highest and best use of the property in both the before and after valuations. Significant severance damages can occur when the highest and best use changes as a result of the acquisition.

If there are improvements within the proposed acquisition area such as signs, fencing, stonewall, etc. the Appraiser should obtain a list of items the Department will relocate. If the improvements are not scheduled to be relocated, their contributory value should be reflected in the before valuation.

#### **4.26 ALLOCATION OF DAMAGES**

Condemnation appraisals should contain an independently supported land valuation exclusive of the improvements. The Appraiser is also required to provide an overall valuation analysis (land and improvements). If a building or other improvements(s) are situated on land being taken for highway purposes or partly situated thereon, the Appraiser is to allocate value to the land and a separate value for the structures and improvements. In summary, having arrived at total overall loss in value, the Appraiser shall allocate total diminution between the individual component parts based upon the components' values as part of the whole.

Damages should be allocated to whatever rights were acquired i.e. fee taking, easements and improvements. The rights acquired may be referred to as the "part taken". Severance is the diminution of the market value of the remainder. It is calculated by deducting the part taken from the difference between the before and after valuations. The Appraiser shall identify the source of the severance. Some common sources include, but are not limited to: proximity, change in highest and best use, change in shape, and change in size.

#### **4.27 EMINENT DOMAIN APPRAISAL STANDARDS AND REPORTS**

##### **A. WRITTEN APPRAISAL REPORTS**

Formal, written appraisal reports are required for each parcel to be acquired or partially acquired, unless donated or if the magnitude and complexity of the acquisition indicate that an appraisal is not necessary. These will be in the form of either a "Complete Take Appraisal (CT), a "Land Value Appraisal" (LVA), or a "Before and After Appraisal (B&A)" report.

## **B. FHWA AND USPAP COMPLIANCE**

Eminent Domain appraisal reports must meet the development and reporting requirements of 49 CFR Part 24.103 of the URA which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice in effect as of the appraisal report date.

## **C. EFFECTIVE DATE**

The Appraiser is responsible for valuing a property in its actual condition as of the stated date of valuation. For condemnation appraisals, the effective date shall be the date of taking, otherwise the effective date should typically be the date of last inspection by the Appraiser, unless that results in an outdated appraisal. An appraisal becomes outdated when its value estimate no longer reflects the conditions in the local real estate market.

Appraisals may become outdated by the passage of time or;

Significant changes in:

- National economic indicators or the local economic outlook (i.e. the number of comparable sales in the local market);
- The market for salable commodities from the parcel, such as timber; or
- Laws, regulations, or ordinances affecting land use.

Sudden unforeseen events such as:

- Natural or manmade catastrophes or events on or off the parcel;
- Announcements of plans for significant changes near the parcel (excluding the project for which the acquisitions are being made);
- Discovery of oil, gas, or hard mineral deposits on or near the parcel; or
- Discovery of contaminants on the parcel or in a location that affects it.

When an appraisal becomes outdated prior to submission, the Appraiser should re-inspect the subject property and the appraisal report should be revised to provide value estimates valid through the date of submission.

#### **D. TYPES OF APPRAISALS / REPORTING REQUIREMENTS**

1. For a "Complete Take Appraisal" (CT) the submitted report must be suitable as an exhibit for court purposes and must meet the current requirements of appraisal reports as defined by the Uniform Standards of Professional Appraisal Practice and 49 CFR Part 24.102-103 (The URA).
2. A "Land Value Appraisal" (LVA) may be used to value all properties where the acquisitions have no measurable adverse effect on the remainder. Before completing an LVA, an Appraiser is required to do a thorough analysis of the property to determine that a fully developed before and after appraisal would show no diminution in value as a result of the acquisitions. The purpose of an LVA is to estimate market value of the land only. In addition to fee acquisitions, LVA appraisals can also be used for part taken allocations of temporary and permanent construction, drainage, slope, access, and other easements sought by the Department if the Appraiser determines no measurable adverse impact to the property. The Land Value Appraisal should:
  - a. Summarize the description of the subject property based on a physical inspection. The physical inspection should include an interior and exterior inspection of all improvements (assuming the property owner grants permission)
  - b. Include photographs of the subject property
  - c. Summarize a description of the acquisition. Include a plan of the taking and remainder.
  - d. Include a description of the effect of the acquisition on the remainder
  - e. Summarize and support the rationale for the opinion of the highest and best use of the real estate both before and after the taking
  - f. Adequately describe why the acquisition does not diminish the value of the remainder
  - g. Satisfy USPAP requirements for an Appraisal Report of the site value as vacant, including adequate information about analysis for the reader to understand the nature of the analysis and the nature of the data supporting it.

The preferred method of valuation is a sales comparison approach that includes a grid showing adjustments to the sales, indication of value of the subject by each sale followed by a reconciliation and conclusion of site value for the subject. A brief summary of why each adjustment was made should be provided based on a brief description of the sales used.

- h. Based on the site valuation, complete a pro rata calculation for the acquisitions. Generally, the pro rata unit value is to be calculated by dividing the indicated value of the site as a whole by the total site area. The units of comparison for site valuation should reflect those used by the market for the subject site, most commonly price per acre or price per square foot.

Utility and value may vary widely over a site. When a site's value rests only in some portions of it, the market may dictate a valuation based on only the total area deemed 'useful'. In such cases the following rules are to apply:

- i. If the acquisitions impact only the usable portions of the site, the pro rata should be based on the whole site value divided by the usable land area. If any part of the acquisitions impact areas deemed unusable, the pro rata should be based on the whole site value divided by entire area of the site.
  - ii. If easements are temporary, fee value per unit is multiplied by the easement area after making a reasonable percentage allocation representing the impact of the easement on the fee simple ownership position. The allocated per square foot (or per acre) value of the part taken is multiplied by the land capitalization rate resulting in an annual ground rent. The estimated annual ground rent is then multiplied by the length of the proposed duration of the easement (not the expiration date of the easement) resulting in an allocation of the part taken for the temporary construction easement.
  - iii. Include a copy of the legal description and identify ownership.
  - iv. If the property owner rejects the Department's offer based on the LVA appraisal and appeals to the NH Board of Land & Tax Appeals (BTLA) a "Before & After" Appraisal Report shall be completed by the Appraiser.
3. For a "Before & After Appraisal" (B&A) the appraiser must employ a full narrative report based on detailed highest and best use analysis of the subject parcel in the before and after condition. The submitted report must be suitable as an exhibit for court purposes and must adhere to the criteria mandated by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (1970) and 49 CFR Part 24.102 & 103. Additionally, the appraisal must fulfill the guidelines for "appraisal reports" as described in Standards 1 and 2 of the Uniform Standards of Professional Appraisal Practice (current version).

"Before and after" appraisal format is always used in those instances when the acquisition causes a diminution of value to the remainder. The following information and analysis should be included in a "Before and after" appraisal:

- a. A property description of the real property, personal property and/or rights to be acquired
- b. A description of the physical and functional effects of loss of the real property and/or personal property.
- c. A property description of the remainder property. This may be in Abbreviated form, (i.e., Where no changes have occurred, reference may be made to the earlier descriptions.)
- d. An analysis of Highest and Best Use of the subject property as is, disregarding the project influence or reason for the acquisition. Both an analysis of the land as vacant, and an analysis of the property as improved are required.
- e. An analysis of Highest and Best Use of the remainder (the subject property after acquisition). Both an analysis of the land as vacant, and an analysis of the property as improved are required.
- f. A valuation of the entire property existing prior to the proposed acquisition, disregarding the project influence or reason for the acquisition.
- g. A valuation of the property as existing after the acquisition. This often uses the same valuation approaches as developed in the before acquisition analysis. A complete analysis must be provided. Use of Costs to Cure, where such costs are less than the reduction in value if not cured, is required. Such costs should be based upon documented estimates and may require specialty reports.
- h. If the same comparable sales are used in both the before and after analysis the Appraiser must provide market justification for the adjustments made to the comparable in both the before and after analysis.
- i. A statement as to conclusions reached.

It is not a recognized appraisal practice to produce an after acquisition value by subtracting the estimated value of acquisition and damages from the before acquisition value conclusion. Doing so does not value the remainder property. Summation appraisals are unacceptable and a

violation of USPAP. It is not acceptable to simply sum the unadjusted value of separate parts of a property to develop before or after value opinions.

#### **4.28 SUGGESTED BEFORE AND AFTER REPORT FORMAT**

A suggested format for the "Before and after" appraisal report follows:

##### TITLE PAGE

Project

State Project#

Parcel#

Owner

Address

Name of Client

Appraiser's Name

Effective Date of Value

##### LETTER OF TRANSMITTAL

Date of Letter

Identification of Property

Property Rights Appraised

Estimate of Damages

Effective Date of Value

Signature





**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

PART I – INTRODUCTION

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After Value

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Signature

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Need AG opinion?

Photos if Important

History of Property Use

Dates of Renovations, Additions, Etc.

Reference to Title Abstract in Addendum

Sales with Details

Rentals with Details

Assessed Values and Tax Load

Breakdown of Assessments if Available

Cite Tax Map and Lot

Zoning and Land Use Regulations

Describe Zone(s)

Refer to Copy in Addendum

Rezoning probability?

### PART III - DATA ANALYSIS AND CONCLUSIONS - BEFORE

#### HIGHEST AND BEST USE

As Vacant

Test for Larger Parcel

Unity of Title and Use, Contiguity

As Improved

#### VALUATION PREMISES

Reasons Use or Not Use Approaches

#### LAND VALUATION

Description

Analysis

Grid

Concluslon

**COST APPROACH**

Reproduction / Replacement

Cost Source Identified / Forms Used

Depreciation

**SALES COMPARISON APPROACH**

Description

Discuss All Recent Sales of Subject

Analysis

Grid

Conclusion

**INCOME CAPITALIZATION APPROACH**

Gross Income Estimate

Supported by Rental Data

Vacancy/ Expenses/ Net Income

Supported by Comparable Info

Capitalization

Method Fully Explained

Market Supported

RECONCILIATION AND BEFORE VALUE ESTIMATE

Reasoned Analysis

Marketing Period

PART IV - DESCRIPTION OF THE ACQUISITION

PHOTOS OF THE TAKING

FEE ACQUISITION

EASEMENTS

BUILDINGS OR PARTS THEREOF

SITE IMPROVEMENTS

EFFECT OF TAKING ON REMAINDER

PLAN OF THE TAKING

Dimensions

Buildings

PART V - FACTUAL DATA - AFTER THE TAKING

DESCRIPTION OF THE NEIGHBORHOOD

Describe Project

Impact of Project

PHOTOGRAPHS OF REMAINDERS



**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

PLAN OF REMAINDERS

Dimensions

Buildings

PROPERTY DATA

Site Description

Relationship to Project

Grades

Access

Easements

Description of Improvements

Distances to Traveled Way and ROW

Personality/Equipment/Specialty Items

Assessed Values and Tax Load

Zoning and Land Use Regulation

PART VI - DATA ANALYSTS AND CONCLUSIONS - AFTER THE TAKING

HIGHEST AND BEST USE

As Vacant

As Improved

VALUATION PREMISES

LAND VALUATION



COST APPROACH

SALES COMPARISON APPROACH

INCOME CAPITALIZATION APPROACH

RECONCILIATION AND AFTER VALUE ESTIMATE

PART VII - FINAL CONCLUSIONS

EXPLANATION OF SEVERANCE

Market Derived vs. Cost to Cure

Make sure is Compensable

EXPLANATION OF SPECIAL BENEFITS

Clear Description of Benefit

Must be Legally Recognized

Must not be a General Benefit

Must be Clearly Supported

Refer to Specs for Methods

SUMMARY AND ALLOCATION OF DAMAGES

Market Value before the Taking

Market Value after the Taking

Total Damages

Value of Part Taken

Detailed Breakdown Not Required

Severance

Special Benefit

#### PART VIII - EXHIBITS AND ADDENDA

QUALIFICATIONS OF THE APPRAISER

REFERENCES

MAPS OF COMPARABLE SALES AND RENTALS

DETAIL OF COMPARABLE DATA

OTHER EXHIBITS

Copy of Soils Maps

Legal Instructions

Specialist Reports

Subject Leases

#### OUTLINE NOTES:

##### **Identification of Property**

The property is typically identified by a street or rural address, or, if a vacant property, by a street name plus the tax map and lot number. The legal description is typically shown in the title abstract as provided, or as shown in the most recent conveyance documents. While effort is made to provide the Appraiser with a proper definition of the "Parent Parcel", it is the Appraiser's responsibility to note any potential problems in the "Parent Parcel" legal description and to discuss the need for possible revisions with the Chief Appraiser, or their supervisor. Lengthy legal descriptions for subject properties and sale comparable may be abbreviated.

### **Effective Date of Value**

Most frequently, for purposes of appraisal, the date of inspection is used as the valuation date, although often it may be fixed at some prior or future time. Appraisals for condemnation appeal shall be as of the date of taking. The Appraiser is responsible for valuing a property in its actual condition as of the stated date of valuation. If significant time has elapsed between the dates of appraisal and date the appraisal will be submitted to the Department the Appraiser should make every effort to reinspect the subject property and provide a date of appraisal reflective of current market conditions.

### **Definition of Property Rights Appraised**

All Eminent Domain appraisals for the Department should value the fee simple interest not subject to easements, (unless they are State easements), liens and encumbrances such as mortgages or leases. However, the Appraiser is to consider reservations or restrictions, be they public or private, such as rights of way, flood/navigational easements, and aerial easements, etc.

If easements are acquired in the taking the value of easement should be estimated. An allocation should be made between the property owner and each easement holder property rights.

### **Regional, Municipal, and Neighborhood Data**

A description of the physical, amenity, and economic factors of the community and neighborhood must be included. The description should concentrate upon those factors that have an effect upon the current market value of the property or properties appraised. An analysis of how and why these factors are affecting value should be included. Extraneous material not related to the appraisal problem is not appropriate.

### **Property Data**

The physical description of the tract shall address all relevant characteristics of the site including size, shape, topography, drainage, agricultural suitability, soil characteristics, and accessibility.

The physical description of improvements shall address all relevant characteristics of the improvements including type of improvement, use or occupancy, size, shape, style, construction

materials, finish materials, quality, condition, obsolescence and adequacy factors, location on the tract and, if appropriate, recent rental history.

A detailed and accurate description of all property attributes is necessary. Items of depreciation or obsolescence should be detailed. All items of importance in the valuation sections should be introduced and discussed.

All buildings, structures and other site improvements must be identified and described, even though they may not significantly contribute to the value of the property.

All fixtures and property included in the valuation must be listed and described in such a manner as to facilitate their identification by others. (See also section 4.15 above)

#### Easements / Restrictions / Covenants

Existing limitations to fee ownership of the real property being appraised should be discussed. Some examples include:

- Zoning restrictions, and the reasonable likelihood of zoning changes, not dependent on the project for which the property is to be acquired.
- Existing easements, both recorded and obvious adverse possessions.
- Leases and tenants. Terms for both written and verbal tenancies should be noted. Copies of written leases should be included.
- Lack of other ownership rights such as mineral rights or the right to conduct certain types of business, etc.

#### Unusual Hazards

A statement as to the knowledge, suspicion, or presumed existence of: ground water contamination, petroleum storage tanks, chemical storage or other possible contaminants in or on property, or, a statement that the property appears to be uncontaminated, is required.

### **Personalty / Equipment / Specialty Items**

Tenant owned structures and fixtures shall be noted. If both landlord and tenant have signed an agreement denoting the tenant owned fixtures and equipment, the Appraiser shall develop an appraisal of the tenant's interest separate from the owner. If the owner and/or tenant do not agree on ownership, the Appraiser should develop a division of interests and report it separately in the appraisal report.

### **Highest And Best Use**

Highest and best use is defined by The Appraisal of Real Estate - as "the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value."

Where the Highest and Best Use is considered to be for development, there must be a discussion of the supply of and demand for similar development land, together with a supported absorption period for the subject.

### **Valuation Premises**

In estimating the current market value of property, the Appraiser should, whenever individually applicable, use all three basic approaches to value as will be discussed. The type of property to be appraised will govern the approach or approaches that should be relied upon. The weight given to or the necessity for, any one approach depends on many things, some of which are:

- Market trends at the time of valuation.
- The amount and quality of available comparable market data.
- The highest and best use of the property.
- The age and condition of the improvements and the amount of physical deterioration, and functional and economic obsolescence if any.

### **Cost Approach**

The cost approach is applied as an indication of market value by estimating the reproduction or replacement cost of new improvements, deducting the accrued depreciation, adding

entrepreneurial profit if supported in the marketplace, and then adding the value of the land as independently determined by market sales comparison or by a residual process.

The cost approach is generally considered most pertinent in the valuation of special purpose and institutional properties. It can be considered most reliable when improvements are new and the property is being put to its highest and best use. In those instances where adequate market data or income information is not available, the cost approach may be the only reliable indicator of value.

Definition: The Cost Approach is that approach in appraisal analysis that is based on the proposition that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject property.

It is a set of procedures through which a value indication is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of, or replacement for, the existing improvement; deducting accrued depreciation and adding the estimated land value plus entrepreneurial profit.

In Eminent Domain appraisal, the "Cost Approach to Value" is considered valid in only two situations:

- When the improvements are nearly new, and functional.
- When the property has a "special purpose" or use, and is of a type seldom sold in the open market.

There are several methods of estimating the replacement or reproduction cost of improvements such as Calculator Cost Method, Segregated Cost Method, independent contractor cost estimate, and "The Square Foot or Cubic Foot Method." There are construction cost index services such as BOECKH, DOW, and MARSHALL AND SWIFT, that may be used to assist the Appraiser in estimating replacement or reproduction costs.

Employing an independent contractor to provide a reproduction or replacement cost estimate is useful for improvements that are unique or of special purpose utility. This decision should be discussed with the Department and then the cost estimate must be checked for accuracy.

The analysis must account for all physical and functional depreciation plus external obsolescence.

- **Economic Age-Life:** The Appraiser must adequately explain and justify estimates of effective age and anticipated economic life.
- **Land Value:** The opinion of land value is to be developed from comparable sales or other methods as outlined in the Sales Comparison Approach to Value. Land value must be estimated on the basis of what would be the tract's highest and best use if unimproved and ready for development.
- **Cost new estimate:** The Appraiser may arrive at a cost new estimate for each improvement on the property basing computations on the updated actual cost, cost of similar new construction, computerized cost services, published cost manuals, or contractor's estimates. The source and development of that data must be documented in a manner that allows the appraisal reviewer to confirm and analyze computations.
- **Accrued Depreciation:** Four methods of measuring accrued depreciation are acceptable.
  - **Breakdown** – This method is to be applied using generally accepted methodology to produce estimates of physical deterioration, functional obsolescence and economic or external obsolescence.
  - **Market Analysis** – The Appraiser must indicate the following: development and documentation of land value from comparable sales and deduction from the total sale price to ascertain the contribution value of the improvements; cost new estimates of the improvements on those comparable sales; comparison of contribution value and cost new to establish the percentage of accrued depreciation on the sale of improvements. To be valid, the comparable should be relatively similar to the subject in age, construction, function and size.
  - **Commercial Cost Service** – If the cost new estimate is developed by such a service, the Appraiser may also use that system's estimate of depreciation, furnishing a copy of the computation or computer output as a part of the appraisal report. The Appraiser should ascertain whether the economic obsolescence, as included in the system, is relevant to the community.
  - **Economic Age-Life** – The Appraiser must adequately explain and justify estimates of effective age and anticipated economic life.

- Value Indication: The final value indication by the cost approach represents the total of the market value of land plus the depreciated cost of all improvements. This must be clearly stated at the conclusion of the approach.

### **Sales Comparison Approach**

Definition: The Sales Comparison Approach to Value is a direct sales comparison and analysis. The Sales Comparison Approach in appraisal analysis is based on the proposition that an informed purchaser would pay no more for a property than the cost of acquiring an alternate property with a similar utility. This is the approach to value normally relied upon in Eminent Domain appraisal valuations. In the case of a Before and After valuation, and if the Cost Approach has not been developed, a Land Value as vacant, for its highest and best use, developed using the Direct Sales Comparison Approach is to be included.

The sales comparison approach is essential in almost every appraisal of real property. It is the method best understood by the public, including courts and juries. The comparable sales approach consists of a comparison of the property being appraised with other similar properties that have sold recently. Seldom are two properties identical and adjustments must be made for any differences that would be considered by potential purchasers. In making these adjustments, the Appraiser relies on the elements of comparison which include:

- Property Rights Conveyed – fee simple, leased fee, or leasehold position.
- Conditions of the Sale – unusual conditions influencing the price.
- Financing – Favorable financing can influence prices.
- Changes in the Marketplace – Are property values stable, increasing, or decreasing.
- Location – traffic exposure, access, neighborhood land uses, zoning, availability of utilities, other amenities, etc.
- Physical Differences – size differences, topography, soils, wetlands, condition of improvements, functional utility of improvements, etc.

The adjustments normally are made in the order listed above. In addition, each appraisal should include:



- An identifying number for each sale used and analyzed, providing a recording reference, date of sale, revenue stamps, confirmation source and photograph or plan if available.
- Location of the comparable sales used on a map.
- Explanation of each sale and adjustments based on a comparative analysis using paired sales analysis where possible (quantitative) or a qualitative analysis when the data sample is limited. The adjustments should be made using percentages, dollars, or simple pluses and minuses.

In order to use this information the Appraiser must make every reasonable effort to verify the sales data. The Appraiser must have complete knowledge of all the facets of the comparable property, and must then use skill to insure the interpretation and adjustment of the information is reasonable and can be logically supported.

The Appraiser shall collect, inspect, verify, analyze, and reconcile comparable sales information available to produce a value conclusion. Comparable sales data must be contained in the appraisal report.

The Appraiser must analyze available market information and explain how that data related to the subject property. The means for expressing that analysis covers a broad spectrum of qualified skill depending on the property and market being analyzed.

The Appraiser needs to present available market information and supply comparative adjustments, using quantitative and/or qualitative techniques, between that information and the subject property to arrive at a final indication of market value. Quantitative techniques include paired data analysis, statistical analysis, graphic analysis, trend analysis, cost related analysis and secondary analysis. Qualitative techniques include relative comparison analysis, ranking analysis, and personal interviews.

In any case, the Appraiser must clearly and accurately present these analyses, opinions, and conclusions in sufficient depth and detail to convince a reader of the report that they are appropriate and reasonable.

### **Income Capitalization Approach**

In using the income approach the Appraiser is concerned with the present worth of the future potential benefits of a property. This is generally measured by the net income that a fully informed

person is warranted in assuming the property will produce during its remaining useful life as it may be affected by neighborhood influences. It is essential that net income or rent be distinguished from business income or profit. After comparison with investments of similar type and class, this net income is capitalized into a value estimate.

Developing or identifying the capitalization rate is one of the most important steps in the income approach. A variation of only one half of one per cent can make a difference of many thousands of dollars in the capitalized value of the income. The work to be done assembling and processing income data is of four kinds. They are:

- Obtaining the rent schedules (Rent Rolls) and the percentage of occupancy for the subject property and for comparable properties for the current year and for at least 2-3 years of operating history. This information provides gross rental data as well as operating expenses and the trend in rentals and occupancy for the subject property. The Appraiser should become familiar with analyzing leases.
- Obtaining operating expense data such as real estate taxes, property insurance, and common area maintenance costs being paid by the subject property owner and by comparable properties. Often, the owner (lessor) is reimbursed for taxes, insurance, and common area maintenance (CAM) charges by the tenants (triple net lease) and other times, the tenant (lessee) pays just utilities (modified gross). With full gross leases, the owner pays all operating expenses. Establishing the trends in these expenses is helpful in projecting future income streams using yield capitalization.
- Projecting a periodic or stabilized vacancy and credit loss factor. This is usually achieved by researching the rental comparable to be used and obtaining occupancy levels for the comparable multi-tenanted buildings. Deducting a vacancy and credit loss factor results in an effective gross income (EGI). From this, operating expenses are deducted to arrive at the net operating income.
- Selecting the appropriate capitalization, or discount rate and the applicable technique and method for processing the estimated net income(s) is accomplished using the Band of Investment technique and/or other methods of building up rates using mortgage and equity components. Extracting capitalization rates from comparable sale properties is often the most reliable indicator of the rate to apply.

The income approach is another avenue by which the Appraiser estimates value. It has its greatest usefulness in the valuation of investor-owned income-producing property, such as apartments, motels, and commercial buildings, since the average investor in such property purchases it in order to receive future benefits (income). The person who invests money in an apartment building, for example, expects a reasonable return on and of the investment.

In the case of a Before and After valuation, and if the Cost Approach has not been developed, a Land Value as vacant, for its highest and best use, should be developed using the Direct Sales Comparison Approach.

The Appraiser shall collect, inspect, verify, analyze, and reconcile such comparable income data as are available to indicate an appropriate estimate of the gross income of the property being appraised.

The Appraiser shall collect, verify, analyze, and reconcile such data on comparable operating expenses as are available to support an estimate of all operating expenses pertinent to the property being appraised.

The Appraiser shall collect, verify, analyze, and reconcile data available to support an appropriate capitalization rate or rates to be applied to the estimated net operating income.

The method, process, and technique of capitalization shall be appropriate to the type and characteristics of the property being appraised.

A final value indicated by the Income Capitalization Approach shall be reached and clearly stated at the conclusion of the approach.

### **Reconciliation and Value Estimate**

The Appraiser must reconcile the value indications previously reached from the approaches to value to arrive at a final opinion of value. Appraisers are to reconcile facts, trends, and observations developed in their analyses and review the conclusions, validity and reliability of those conclusions. Relative significance, applicability, and defensibility of each indication of value is weighed and analyzed, placing greatest reliance on those which are most authoritative in indicating the value of the property or rights under appraisal.

The final value opinion is to be the highest value that a typical informed rational purchaser would pay for the subject property if available for sale on the open market as of the date of appraisal, given the data developed in the analysis.

### **Exhibits And Addenda**

The appraisal should include any supportive material that the Appraiser believes would assist in explaining or justifying the observations and conclusions. This material may consist of: maps, charts, plans, photographs, cost estimates, sketches, hazardous material inspection reports, traffic count charts, community ordinances, sale contracts, offers to purchase, leases, etc.

### **Specialist Reports**

Fixture and equipment Appraisers who have provided appraisals of personal property under their own signature are required to sign and include certificates only as to those conclusions, even though they may be incorporated into the larger report by the real property Appraiser.

## **4.29 SPECIAL BENEFITS**

Special benefits to the remainders of properties acquired are those which enhance the value of the remaining property or its highest and best use after the taking, and which the property owner receives that are peculiar to this property. As defined by AASHTO, "special benefits are the advantage accruing from given highway improvement to a specific property and not to others generally. In contrast, general benefits are those that result to an area in general following the opening or improvement of a highway".

In New Hampshire special benefits shall offset damages to the remainders, as well as be used to offset the value of the property acquired.

While owners are entitled to just compensation for property taken for highway purposes, unless benefits are taken into consideration the rights of the taxpaying public will not be protected. Appraisers must, therefore, be thoroughly familiar with the various benefits that may affect a remainder property after a partial taking and under what conditions they may offset damages. Appraisers who may be unfamiliar with the determination and application of special benefits should consult with Legal Counsel or the client.

#### **4.30 NON-COMPENSABLE ITEMS**

Damages deemed "consequential" are not compensable under federal law, so the following items shall be eliminated from consideration in an after value appraisal:

- Loss of profits or business.
- Circuity of travel by reason of the blocking of an existing public road, where it is damage suffered in common with the public generally.
- The placing of an island or medians in the center of a street or thoroughfare does not entitle the owner to damages inasmuch as this is an exercise of police power even though ROW is acquired at the same time.
- Loss of access beyond reasonable access. The only access right a landowner has is the right of reasonable access to the highway system.
- In estimating damages to property taken containing sand, gravel, or other types of material deposits, the land must be valued by considering the potentialities that it possesses and minerals it contains as land, not valued on a yards time's retail unit price basis applied to the quantity of materials available.
- Damages arising by a reasonable and lawful exercise of police power to protect the public .
- Damages during the period of construction such as noise, dust, inability of customers to conveniently get to a business properly, or the closing of a street and detouring of traffic.
- Damages by reason of the loss of anticipated profits that the owner(s) claims could have been made had they been allowed to continue the use of their property.
- Loss of parking within the ROW. The loss of parking spaces on the ROW so long as there remains reasonable access to the property cannot be considered in determining damages.

#### **4.31 SIGNS**

On-premise signs, that will not be relocated and are not portable, are appraised as part of the larger parcel of real estate, not as an independently severable improvement.

Typically, advertising devices (different from on premise signs), owned by outdoor advertising companies, including painted bulletins, poster panels, painted surfaces, etc., should be valued based on the cost valuation of the sign. Signs owned by outdoor advertising companies constructed on leased land are considered personal property

The New Hampshire Supreme Court has held that the "cost valuation of the signs coupled with the income value of the ground leases awarded all the value that could reasonably be expected to accrue to the (owner)" and "that value is limited here by the brevity of the leaseholds and their uncertain renewal prospects." *State v. 3M Nat'l Advertising Co.*, 653 A.2d 1092 (N.H. 1995).

The Appraiser should be aware that the method of sign valuation is subject to legal interpretation and therefore, consultation with the AG's Office is recommended before proceeding with the assignment. Once guidance has been received, relevant jurisdictional and legal issues should be summarized in the Scope of Work.

#### **4.32 APPRAISAL OF REAL ESTATE NOT SUBJECT TO EMINENT DOMAIN**

These kinds of appraisal assignments are generally used when the Department disposes of its excess land, leases excess land or, when an owner requests that an access be modified on a limited access highway. Appraisals for other departments such as the Fish and Game Department, Resources and Economic Development or Environmental Services may also fall under these guidelines. Appraisals not subject to Eminent Domain will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). Procedures for marketing and disposal of Department property is addressed in Chapter 8 of this manual.

#### **4.33 APPRAISAL OF STATE OWNED PROPERTY**

Real estate deemed surplus by the Department are typically appraised by ROW staff Appraisers. Remnant parcels that, because of size shape or access, do not have an independent value will be appraised as to their contributory value to abutting parcels. Surplus property with a highest and best use as an independent parcel will be appraised as to their market value. Other types of appraisal requests may include easement value or lease value. Surplus property appraisals will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). Procedures for marketing and disposal of Department property is addressed in Chapter 8 of this manual.

#### **4.34 APPRAISAL OF ACCESS MODIFICATIONS**

Enhancement value caused by changes in access is estimated by appraising the property with the current access (Before Appraisal). A second appraisal is done with the new access (After Appraisal). The difference between the before and after appraisal, if any, is what the property owner should pay the Department for the access modification.

#### **4.35 APPRAISAL OF VISIBILITY MODIFICATIONS**

Property owners may request the right to change the visibility of highway traffic to their property. Typically this occurs when an earth berm obstructs the view of traffic to a commercial property. If the request is granted by the Department, the enhancement value is estimated by appraising the property with the current visibility (Before Appraisal). A second appraisal is done with enhanced visibility (After Appraisal). The difference between the before and after appraisals, if any, is what the property owner would pay the Department for the visibility modification. Additionally, if the earth berm contains sand and or gravel deposits that have monetary value the Appraiser would estimate the "in place" value of the sand and or gravel deposits and the property owner would pay the Department for this estimated value.

#### **4.36 CORRIDOR VALUATION**

A corridor, or more precisely, a transportation corridor, is "a created property, usually very narrow compared to its overall length, consisting of acquired individual land parcels and /or real property rights, which were assembled into a single parcel for the purpose of delivering people, goods, and services from one point to another." Corridor Valuation by Arthur G. Rahn, 2005 pg 6.

Corridors have value because of the points (interim points and end points) they connect and how they connect them. The nature and quantity of what can be transported or transmitted through a corridor affect its utility and therefore value.

The Across the Fence (ATF) technique is the most commonly employed recognized appraisal technique used for valuing a corridor. Recognition of this technique predates that of the Sales Comparison, Income, and Cost approaches to value in that the ATF technique was codified by T. P. Artaud in the

Interstate Commerce Commission Bureau of Valuation's 1918 document, "Instructions Pertaining to Land Appraisals".

The ATF model simply sums land value estimates for abutting sites disregarding the effects (such as access to the site by the corridor, or improvements made to the original land so it could be used as a corridor) of the corridor. To convert this summation to a value estimate, a Corridor Enhancement Factor (CEF) is used. CEFs are greater than one when the value of the corridor is greater than the sum of its parts, but can be less than one if the corridor is worth less than the sum of its parts. The former case can be illustrated by an active corridor that is not feasible to discontinue, while the latter can be illustrated by a discontinued branch of a rail line with the rails removed but ties containing hazardous materials remaining.

ATFs may be developed using a zones of value perspective or detailed site value estimates of abutting properties. Either way, the ATF estimate must be of the land disregarding all aspects of the corridor or the subsequent application of the CEF will be duplicating adjustments. For example, if a lot is made up of wetlands, but the land in the area of the corridor has been built up to be uplands, the value to be used in the ATF should reflect wetlands rather than uplands. This is because the land in the area of the corridor would be wetlands were it not for the corridor.

The reliability of the value estimate rests equally on the reliability of both the ATF and the CEF. Consequently, the CEF should be developed from market evidence, ideally from sales of other corridors of similar types and their corresponding ATFs.

Requests for corridor valuations will be to the attention of the Administrator and Chief ROW Appraiser. The Chief ROW Appraiser will decide on the qualifications and experience required to complete the valuation request. If a qualified, experienced Appraiser is not currently available on the ROW staff, then the Chief Appraiser and the Administrator will arrange to fee the valuation service to a qualified contract Appraiser.

#### **4.37 APPRAISAL OF CONDOMINIUMS**

Condominiums are a type of ownership, not a property style. Appraisals and acquisitions must conform to NH RSA 356-B:6. This statute assigns the unit owner's association an attorney-in-fact for actions against and payments for common areas in general. Individual units and limited common areas remain the responsibility of their interest holders.



Most partial acquisitions of condominiums affect only common areas. Condominium land has no independent utility or value; its only value is what it contributes to the units it relates to. The valuation of each condominium unit before and after the partial taking measures the contributory value of the common area taken and damages to the remainder properties. This process does not impose an artificial value on the common area as a separate entity, but is typically infeasible and unnecessary.

Each individual condominium unit and its respective share of the common elements within the complex constitute a single parcel, and only units with measurable impact need to be addressed. For partial acquisitions of common land, an analysis will be performed for the unit believed to be most affected by the acquisition. If measurable damages are identified, the next most affected unit(s) will also need to be appraised. This process should continue until measurable damages are no longer encountered, then the sum of the unit diminutions would be damage caused by the acquisitions.

For example, if proximity to the acquisition was proportional to the impact to the unit, valuations would proceed from the closest unit to the farthest unit until no impact could be measured. More distant units in the condominium would be considered to have no measurable losses, and would not be appraised.

It is possible that no measurable damage to any unit is anticipated. In that case, an LVA may be performed handling the condominium land as a vacant parcel of land held in fee simple.

#### **4.38 QUALIFICATIONS OF REVIEW APPRAISERS**

Appraisers are assigned to review appraisals by the Chief Appraiser. Review Appraisers are usually selected from the staff Appraisers of the Bureau on the basis of observed performance. The Chief Appraiser must depend upon the Review Appraiser for approving values that adequately compensate the owner and at the same time protect the taxpayers' interest.

The Review Appraiser should have the following desirable qualifications:

The Review Appraiser must be a thoroughly qualified Appraiser with formal appraisal training, extensive appraisal experience, and preferably, court experience. Assignments should be made primarily in the areas of the reviewer's broadest experience. The demands of working cooperatively and productively with both staff and fee Appraisers require the Review Appraiser to be professionally well qualified. Criticisms, questions, suggestions, and corrections have greater validity and are more readily acceptable to the Appraiser when made by a professional equal.

Other desirable experience includes buying, selling, and management of property; college training in business administration, law, or engineering, or continuing education in the real estate field; and as a government employee at management level, training in public administration.

The Review Appraiser is in a position of great responsibility, and public trust. A person of judgment, tact, and integrity must fill it.

The qualifications of a Review Appraiser must be, at a minimum, equal to those of an Appraiser III. In those instances when a Consultant Review Appraiser is used, the reviewers must have previously pre-qualified themselves.

#### **4.39 SELECTION OF CONSULTANT REVIEW APPRAISERS, CONTRACTS AND FEE**

When an appraisal is advanced to the review stage, a determination is made by the Chief Appraiser, whether to assign it to a staff member or retain the services of a Consultant. This determination is based on the staff's workload, complexity of the appraisal problem, or when an outside opinion is otherwise desirable or necessary.

In those instances requiring the services of a Consultant, either an estimate of the consulting fee is made by the Chief Appraiser or a fee proposal is solicited from the consultant. The factors considered in estimating the fee are:

- Number and type of appraisals to be reviewed.
- Complexity and nature of the appraisal problem
- Time being allowed consultant to complete assignment
- Location of assignment
- Due compensation is allocated consistently and fairly throughout the project from parcel to parcel based on impacts

Along with the "fee estimate," a determination is made of which Consultants are best suited for the assignment. Their availability for assignment is also confirmed.

Consultant names are placed on a roster of "qualified Review Appraisers" by the Chief Appraiser based on their past record of performing satisfactory appraisal work for the Department, and/or by

demonstrating proficiency and ability conducting appraisal reviews for other entities with similar appraisal review requirements.

#### **4.40 OBJECTIVES OF REVIEW**

The total appraisal process is not completed until there has been an adequate review of the appraisals and a determination made as to whether or not the appraisals represent fair market value for the property under consideration and a reasonable estimate of just compensation due the property owner has been made. From the facts and conclusions found in the various appraisals and from the Appraiser's own knowledge and investigation, the Review Appraiser must be able to make logical and sound decisions as to that which represents fair market value for the property and reasonable and just compensation due the property owner.

The Review Appraiser shall follow accepted appraisal principles and techniques in accordance with existing New Hampshire law and the Uniform Standards of Professional Appraisal Practice Standard Rule 3. The Review Appraiser shall examine the appraisal reports to determine that they:

- Are complete in accordance with 49 CFR Part 24.103 the URA, the applicable Standard Rules of USPAP, and the Department's appraisal specifications.
- Contain or make reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimates of value and/or damages contained therein.
- Include consideration of compensable items, damages and benefits, and do not include compensation for items non-compensable under New Hampshire law.
- Contain an identification or listing of the buildings, structures and other improvements on the land as well as the fixtures which the Appraiser considered to be a part of the real property to be acquired.
- Contain the estimate of damages for or resulting from the acquisition, and where appropriate, in the case of a partial acquisition, either in the report or in a separate statement, a reasonable allocation of the estimate of damages for the real property acquired and for damages to remaining real property.

If, after analyzing the appraisals and making any necessary field investigations, including a visit to the subject property and comparables, the Review Appraiser decides that the appraisal does not completely

meet the requirements, then the Review Appraiser should prepare a memorandum setting forth the deficiencies and recommend a course of action, which could consist of any of the following:

- Arrange through the Chief Appraiser a conference with the appraiser if the Review Appraiser deems it appropriate to discuss deficiencies.
- Request and obtain, from the Appraiser through the Chief Appraiser, corrections or revisions of appraisal reports which do not substantially meet the requirements. These shall be documented and retained in the parcel file.
- Request that additional appraisals be prepared

#### **4.41 PRELIMINARY OFFICE CHECK OF APPRAISALS**

Each appraisal shall be "desk reviewed", by the Review Appraiser, before making a field inspection. The Review Appraiser shall examine all appraisals for errors in areas, names, basic assumptions, affidavits of the Appraiser for completeness, sketches and plats, photos, etc. All computations as to square feet or acres of land, square feet or cubic feet of improvements, adjustments of comparable sales, income and cost approaches should be checked.

The Review Appraiser may supplement an appraisal report with corrections of minor syntax and mathematical errors where such errors do not affect the final value conclusion. The Review Appraiser will initial and date all such corrections.

#### **4.42 REVIEW OF MULTIPLE APPRAISALS**

Multiple appraisals made for an individual parcel shall be made available for review before market value is established and just compensation is estimated. When two appraisals are made, and are being desk reviewed, special attention should be paid to whether there is a wide divergence in the two estimates of damages. If a wide divergence is noted, the Chief Appraiser should decide whether or not a third appraisal is necessary. Early arrangements for a third appraisal are necessary to avoid undue delay in completing ROW acquisitions.

#### **4.43 FIELD INSPECTION OF APPRAISED PROPERTIES BY REVIEW APPRAISER**

Field reviews are an essential part of the review process, and these should include an examination of the entire project in the field. The Review Appraiser should first orient himself/herself and analyze the general neighborhood data, the comparables listed in the appraisal reports and others the Review Appraiser has found through other sources and the Appraiser's reasoning used to arrive at his/her estimate of value.

The Review Appraiser should inspect the subject property. The inspection should include the interior of the improvements if the building is being taken or if the taking will diminish the utility of the interior of the building. It is desirable that such inspection of improvements be made in the presence of the owner or with the owner's knowledge when an interior inspection is made. The date of inspection should be noted and recorded, together with the names of parties present or advised.

The Review Appraiser should answer any questions the owner might have concerning procedure. The Review Appraiser should not discuss value, since this is the function of the Agent. A systematic, efficient, and complete inspection of the property may help assure the owner that full and individual consideration is being given.

The Review Appraiser may ask the property owner to point out any special items of construction or value that they feel should not be overlooked. This may help assure the owners that full consideration has been given to all items that they feel are important. In viewing the exterior of the property, the Review Appraiser should note the trees, shrubs, and other on-site improvements.

#### **4.44 FIELD INSPECTION OF COMPARABLES BY REVIEW APPRAISER**

The Review Appraiser should personally field check and verify comparable sales. Each comparable sale should be personally inspected. If other sales data is available to the Review Appraiser that is pertinent to the subject appraisal, the Review Appraiser should also sift and compare it with the subject to the extent deemed necessary. The Review Appraiser may wish to verify the price, area, terms, and condition of the sale of any comparable property with the seller, buyer, or broker or other reliable source.

#### **4.45 REASONABLENESS OF HIGHEST AND BEST USE, BEFORE AND AFTER BY REVIEW APPRAISER**

In all cases, the Review Appraiser should inspect the present use of the property and determine its zoning, if any. The Review Appraiser should analyze the highest and best use, as shown in the appraisal both before and after the taking, and be satisfied that the conclusions of the Appraiser are sound and properly supported.

#### **4.46 VERIFICATION OF COST AND INCOME DATA BY REVIEW APPRAISER**

When applicable the Review Appraiser shall make additional checks if the cost or income approaches are used in evaluating the property. The Review Appraiser should ascertain the reliability of the cost data used in the appraisal against current construction costs in the market or on the subject property. Checking with local builders or builders' supply firms provides data concerning current cost of comparable types of building materials. The Review Appraiser should verify that the cost data used in the appraisal is for similar quality of structural components.

If the income approach is used, the Review Appraiser, when applicable, should verify the economic rent on similar properties in the area and verify the interest rate of return in the vicinity for income properties of the subject type. The Review Appraiser may deem it advisable to attempt to find typical operating statements for this type of property in the area. In the land residual technique, the Review Appraiser must be assured that careful consideration was given to the improvement cost, age, income, and highest and best use.

In the building residual technique, land value should have been well established in the market. If gross rent multipliers were used in the income approach, the Review Appraiser should check their reliability and effective range, as well as the rental sales used in computing the multipliers.

#### **4.47 PROPER CONSIDERATION OF BENEFITS AND DAMAGES BY REVIEW APPRAISER**

In the case of partial takings, the Review Appraiser should make sure that the Appraiser has given proper consideration to the measure of damages to remainders and to special benefits, if any. The Review Appraiser should be assured that no damages listed as non-compensable have been included in

the difference between before and after values. All damage items that are included must carry with them a clear explanation of the logic employed in making the damage determination.

The Review Appraiser should watch for plan items such as changes in grade, changes in drainage, alterations or modifications of driveways, access control, provisions for fencing, proximity damage, "cost to cure" items, landscaping damage, and changes that render an existing use nonconforming, can generate compensable value losses that must be recognized by the analysis. The presence of these items may or may not result in a measurable value loss, and the Review Appraiser needs to ensure proper accounting of them within the appraisal.

Strip takings on widening of existing rural highways where the value of the remaining land far outweighs the value of land taken and there are minimal damages, if any, to remainders. The reviewer, however, should be assured that items of damages have not been overlooked by checking the plans to note changes in grade, changes in drainage, alterations or modifications of driveways, application of access control, and provisions for fencing.

Strip takings in urban areas for widening existing streets. This type of taking often results in problems of proximity damage, "cost to cure" items, landscaping damage, and nonconforming use.

**DAMAGE-**In the application of proximity damage to residences (or other improvements), it is highly important that the reviewer be satisfied that the damages are supported from local market data or local market reactions. Where severance damage studies are available in this type of taking the reviewer should give them consideration.

- a) **NONCONFORMING USE-**Wherever the remainder cannot be used in its remainder condition because of zoning or building regulations, the reviewer should obtain supporting documentation to the effect.
- b) Strip takings on widening jobs where improvements are taken. Review should make the same check as under a, and determine the adequacy of treatment of damages to improvements and the need for before and after values for the entire property.
- c) Partial takings of significant proportions leaving one or more remainders, with or without access.

The most significant problems in partial acquisitions can arise due to the many questionable areas of severance damages and benefits involved, real or speculative. In these situations the

Review Appraiser will need to be familiar with the highway construction plans in order to evaluate the effect of the proposed construction on the remainder of the property due to such things as, but not limited to, changed drainage, accessibility to fields, availability of operational area, and similar matters in order to properly evaluate after values.

The Review Appraiser must first assess the comparability of properties used to establish after values, as to similarity in areas such as separation due to roads, railroads, and streams and to other physical features.

In the analysis of the difference between before and after values some of the elements to be considered in the matter of compensable and non-compensable damages include the following:

- a. Economic Size-Adjustments by the Appraiser for economic size should not be arbitrary or speculative but established by adequate market data where possible.
- b. Time Adjustment-Time adjustment should be uniformly applied and, if possible, be established from market data in the area. The use of statewide average changes, if several land uses are involved, may be questionable and should only be used if local data is not available.
- c. Circuity of Travel and Additional Operating Cost Between Remainders. There has been much confusion in the interpretation and application of the term "Circuity of Travel" in distinguishing between compensable and non-compensable damage items. The increased distances required traveling to local markets, schools, and social and cultural events result in costs or damages which are not compensable and should be eliminated if included in an appraisal.

When the taking results in multiple remainders, the additional operating costs may be considered within the fair market value concept.

- 1) Severance damage due to change in grade, impairment of reasonable access, land locking, etc., are appropriate for consideration generally, and the review Appraiser should assess whether the Appraiser's conclusion was founded in the market.



As the Review Appraiser must be assured of the proper measure of compensable damages in the appraisal, the Review Appraiser must also be alert to the possibility of special benefits accruing to the remainder property.

#### **4.48 WAS TECHNIQUE OF ABSTRACTION PROPERLY APPLIED**

The Review Appraiser should carefully check any analysis relying on abstraction. The technique of determining the amount of an unknown quantity when certain other quantities are known is referred to in appraising or mathematics as "abstraction". Obtaining a desired value by abstraction is a useful and accurate technique if used properly in the appraisal process. Its accuracy, however, is entirely dependent on the accuracy of the known quantities also used in the processes.

The Review Appraiser should be certain that the Appraiser is not using "building or improvement contribution" as an equalizer to make sales conform to the abstracted land prices. Building or improvement contribution should be adequately supported in all sales considered as a necessary part of the abstraction technique.

There are a number of areas where the technique of abstraction is used in appraising, for example: in determining the amount of benefits or severance damages in the allocation analysis. Abstraction should only be used in the absence of good comparable sales and when other known quantities are properly supported.

#### **4.49 WERE PROPER APPROACHES TO VALUE USED**

In addition to checking the overall adequacy of the appraisals, the Review Appraiser should determine whether the proper approaches to value were used by the Appraiser. An examination should be made to verify the Appraiser has adequately explained the omission of any approach or approaches. For example, the cost approach has very little validity as buildings grow older, except for special use properties, such as public buildings, churches, etc., where normally the cost approach is the only available guide to valuation.

#### **4.50 SUFFICIENCY OF SUPPORT AND REASONING TO JUSTIFY CONCLUSION**

After determining whether the approaches that have been used are proper, the Review Appraiser should determine whether or not the market data in the appraisals actually fully supports and documents each of the Appraiser's conclusions and findings.

It is necessary to determine whether proper mathematics was used in the application of numbers to the appraisal process and whether, wherever numerical values are used, they are supported and reasonable. Caution and judgment must be exercised because virtually any kind of value conclusion can be derived by manipulation of mathematics. The product is of doubtful validity, unless the mathematics are founded on accurate market data or reasonable inferences and based on sound appraisal theory and principles.

#### **4.51 REQUESTS FOR ADDITIONAL DOCUMENTATION BY REVIEW APPRAISER**

If for any reason the Review Appraiser believes that the appraisal is obviously lacking in any important detail, the Review Appraiser should request, through the Chief Appraiser, the Appraiser makes corrections or furnish such additional support and documentation as may be required.

This is the kind of situation where the utmost tact is required. No one likes to be shown that they are in error, and relations with the Appraiser may become strained through the lack of tact, resulting in unnecessary difficulty in resolving problem areas in the appraisal. Changes in the report itself shall be made only by the Appraiser who prepared the report by providing revised pages.

It is desirable that significant differences be reviewed with the Appraiser in writing, possibly after a discussion or conference. All errors should be called to the Appraiser's attention for if the Appraiser should be used as an expert witness while unaware of even a minor error, the Appraiser's effectiveness as an expert witness may be completely lost.

In the review of a Fee Appraiser's Report, the Review Appraiser may criticize, question, or suggest, but, in the end, the opinion of value is the judgment of the Appraiser and the Appraiser is responsible for defending the opinion in court. The Appraiser is hired for judgment, experience, and expertise and cannot be penalized for the honest exercise of these qualities so long as the conclusions fall within the scope of proper appraisal technique and available data. If the Review Appraiser cannot agree with the finding of the Appraiser after attempts at rehabilitation of the appraisal report have failed, the Review

Appraiser should fully set forth, document, and support all reasons for the difference, in which case it may be necessary to obtain another appraisal by contract, staff, or the Review Appraiser. The URA, USPAP, Standard Rule 3 permits the Review Appraiser to render his or her own opinion of value, a course of action that should rarely be used but may be necessitated by deadline or other similar issue. In such cases, the Review Appraiser becomes the Appraiser of record, and their work and report must clear the same level of review process prior to being approved.

#### **4.52 REVIEW DISPOSITIONS**

The level of review analysis depends on the complexity of the appraisal problem. As needed, the Review Appraiser shall, prior to acceptance, seek necessary corrections or revisions. The Review Appraiser shall identify each appraisal report as:

- Recommended accepted and approved as the basis for the establishment of the amount believed to be just compensation;
- Accepted meets all requirements, but not selected as recommended;
- Not accepted include reasons for not accepting this appraisal.

The Review Appraiser will summarize the findings by completing the Review Appraiser's Summary and Review Appraisers Certificate of Inspection forms. The Review Appraiser will recommend an appraisal as the basis for the establishment of the amount believed to be just compensation and develop and report the amount believed to be just compensation. As an example, the necessary statement could be made:

*"Based on the approved appraisal and my analysis, the compensation offer of [amount] as of [date] is hereby approved for purposes of determining the amount of just compensation."*

The approved appraisal and recommendation for just compensation will then be forwarded to the Chief ROW Appraiser accompanied by the following completed forms: Review Appraiser's Summary, Review Appraisers Certificate of Inspection, and a signed Approval Letter. The Chief ROW Appraiser will forward the approved appraisal and Approval Letter to the ROW Engineer or ROW Bureau Administrator. If two appraisals were done on the same property the Finding of Fact form will also be forwarded to the Chief ROW Appraiser. Only the ROW Engineer, Chief ROW Appraiser, or ROW Bureau Administrator has the authority to sign the Approval Letter authorizing just compensation.

When the appraisal review has been performed by a consultant Appraiser, a member of the appraisal staff will audit the available documentation to ensure:

- Substantial compliance with accepted appraisal principles, the URA, the Uniform Standards of Professional Appraisal Practice, and this manual;
- That the documentation contains sufficient information to communicate and document the appraisal and appraisal review;
- That only compensable and non-compensable items are properly recognized;
- The completeness of the review appraisal process (based on the documentation provided);
- And to verify both Appraiser and reviewer independence have been maintained.

The process to resolve any issue identified by the staff reviewer that requires resolution before recommending the appraisal will be determined by the Chief ROW Appraiser as needed.

#### **4.53 RESOLVING APPRAISAL DIVERGENCIES BY REVIEW APPRAISER**

Two or more appraisals are frequently obtained for the same parcel for the purpose of confirming values involving large or complicated takings. A major review problem results when two equivalently professional Appraisers arrive at important and seemingly irreconcilable differences of opinion of value.

The Review Appraiser shall review both appraisals completely and minutely to discover the exact source of the difference. If it appears to be on a factual basis, both Appraisers should be asked for a confirmation of the factual matter and reanalysis of any possible changes occasioned thereby.

Occasionally, a difference in appraisals of apparently equal quality is a result of honest differing concepts of the property. This brings the greatest test of the review Appraiser's skill and judgment. The Review Appraiser should review each basis of value and the analytical process used by each Appraiser, keeping in mind the abilities and experience of each Appraiser. The Review Appraiser may call for further detail and analysis support from each Appraiser. In the end, however, the decision for approval or rejection is the Review Appraiser's responsibility. A Review Appraiser Summary form will be completed by the review appraisal describing the strengths and weaknesses of each appraisal and which appraisal is approved and why. A Finding of Fact form must be completed by the Review Appraiser indicating which appraisal was approved.

#### **4.54 ADMINISTRATIVE REVIEW**

The Chief ROW Appraiser is greatly dependent on the Review Appraiser for assurance that appraisals are technically adequate and in compliance with USPAP, the URA and the Department's ROW Manual as well as providing the Department with a supportable estimate of damages that represents just compensation.

For continued assurance of satisfactory performance by the Review Appraiser and because of the necessity for great reliance on individual judgment, the effectiveness of the Review Appraiser's work should be continually evaluated.

Product Quality Control is observed through success of acquisition, auditing acceptance, and cost effectiveness.

The work product is subject to field and office audit by a multitude of interested parties, the personnel of which may have little or no actual appraisal experience but have great concern for the effectiveness of the work products (e.g., the division's administrators, departmental personnel, legislative auditors, Federal Highway Administration auditors, legislative committees, public groups, General Accounting Office staff, and so on.) As the Review Appraiser is responsible for assuring compliance with auditing requirements, the audit results are another method of administrative quality control.

#### **4.55 FEDERAL PARTICIPATION**

The Review Appraisers shall be thoroughly familiar with 49 CFR Part 24, (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs) with particular attention to sections covering requirements for eligibility for Federal participation in ROW costs.

For purposes of documentation, the Review Appraiser shall place in the file a signed and dated certification to the effect that:

The scope of the review has included, at a minimum, the following:

- Field inspection of the subject and all sale/rental properties involved in this appraisal.
- Review to ascertain that the report complies with all current applicable State and Federal specifications and laws.

- Report review to ensure that the appraisal has been prepared in accordance with accepted appraisal principles and that it meets all aspects of the URA and Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation and the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA ) (Yellow Book) as applicable.
- Review of report to ensure that it contains information to properly explain, substantiate, and document the descriptive/material and the estimates of value contained therein.
- Review of report to ascertain that the report includes all compensable items but does not include compensation for non-compensable items.
- Request, obtain and review additional information, corrections and revisions to insure that all of the above is met.
- It is my understanding the value as approved is to be used in connection with a Federal Aid Highway Project. I certify that I have no direct, indirect, present, or contemplated future personal interest in such property, nor do I expect to benefit in any way from the acquisition of such property appraised. The undirected, independent conclusion I have reached is based on an appraisal and/or other factual data. It is my opinion that the conclusions do not reflect any compensable items under State Law that are not eligible for Federal Reimbursement.

The Review Appraiser's conclusion of the overall reasonableness and support for the market value estimates shall also be documented in the parcel file to show the basis for this review conclusion. The Review Appraiser's report should comply with the URA and USPAP effective at the time the review report is issued.

#### **4.56 COORDINATION WITH LEGAL COUNSEL BY REVIEW APPRAISER**

The Review Appraiser, being aware of the ultimate use of an appraisal in court, must be assured that the appraisal is of sufficient detail and contains conclusions that are defensible in court. Because of familiarity with the appraised property the Review Appraiser is in a position to advise the attorney on appraised details.

The Review Appraiser can assist the Legal Counsel in advising on the selection of a Contract Appraiser in preparation for trial because of familiarity with the property based on the completed review.

The Review Appraiser may be called upon to testify as an expert witness. As an expert witness the Review Appraiser will work with the attorney in preparing testimony.

While the above emphasizes coordination in preparation for trial work, there are numerous occasions when the Review Appraiser should consult members of the Legal Counsel regarding legal considerations that may have an important bearing on the appraisal and review process.

#### **4.57 REVIEW APPRAISER ASSIST MUNICIPALITIES**

When requested, the Review Appraiser should be prepared to assist in the quality control process involving appraisal; appraisal review and waiver valuation review by local governments in municipally managed projects.

#### **4.58 APPRAISAL UPDATE**

If new information is presented by the owner, or a material change in the character or condition of the property or the taking has occurred, or if a significant delay has occurred since the time of the appraisal of the property, the Department shall have the appraisal updated or obtain a new appraisal. If it becomes necessary to have an appraisal updated, all attempts will be made to contact the owner to invite them for a re-inspection, however, it is not necessary for the owner to accompany the Appraiser in the re-inspection of the property. The original signed and dated appraisal must be kept on file and marked superseded.

#### **4.59 APPRAISAL UPDATE FOR LITIGATION**

When the condemnation process is initiated the case will be assigned to one of the attorneys at the AG's Office. The AG's Office will notify the Appraiser and Chief ROW Appraiser that the appraisal should be updated as of the date of taking. If the original appraisal was in a "land value appraisal" (LVA) format the updated appraisal will be completed in a full before and after (B/A) appraisal format. The before and after method of valuation in partial acquisitions being litigated is required. There are rare situations in which insistence upon strict adherence to the before and after rule would impose costly and sometimes nearly impossible burdens upon Appraisers. In such cases, the rule may be waived by the Chief ROW Appraiser. In either case, a draft of the updated appraisal will be submitted to the assigned Review

Appraiser for review. When the review process is completed the approved appraisal will be forwarded to the assigned attorney at the AG's Office accompanied by the form entitled Approved Appraisal AG Update.

#### **4.60 USPAP COMPLIANCE WHEN UPDATING APPRAISALS**

The Department's review/approval process often generates multiple revisions of appraisals, particularly early in the process prior to approval of the report. Most pre-approval versions of an appraisal are considered (under USPAP) as a single appraisal assignment. Since accurate documentation of the number of assignments is required, it is important that Appraisers and reviewing Appraisers understand what USPAP classifies as a new appraisal assignment and what does not.

#### **4.61 HAZARDOUS WASTE SITES**

During early project development, the Bureau of Environment will identify hazardous waste sites. Hazardous waste is an area of concern to highway contractors, as the potential liability of a hazardous waste site or sites within the project alignment can seriously affect proposed projects. If toxic/hazardous waste is present in the project alignment, it should be tested and mitigation costs estimated prior to the Bureau receiving final plans. The Chief Appraiser assures that any positive testing and mitigation cost estimates are forwarded to the parcel Appraisers.

Contaminated subject properties are to be appraised "as is" disregarding project influences. Therefore, appraisals should reflect only the extent remediation, blight, and knowledge would be recognized by the market if the project did not exist, and the valuation should take into consideration comparable sales with similar contamination, the availability of clean up funds, and mitigation costs.

In some instances the Bureau of Environment may not have identified hazardous waste on a subject parcel. When the Appraiser inspects the parcel they should report to the Chief Appraiser any suspected hazardous waste based on past use of the property and visual signs of contamination. The Chief Appraiser will inform the Bureau of Environment of the suspected contamination. They will do an environmental assessment to determine mitigation cost if contamination is present. The mitigation cost should reflect what a property owner would have been required to correct by the NH Department of Environmental Services disregarding all project influence. This assessment will be provided to the Appraiser.



When the value diminution from a partial acquisition is immeasurable, the damage estimate will be zero and a valuation of the site as if vacant will be required as a basis for a pro-rata accounting of the take areas. If any of the portions of the property to be acquired are contaminated, the site value should be estimated as-is, reflecting the contamination. On the other hand, if none of the portions of the property to be acquired are contaminated, the valuation of the site for the pro-rata estimate should be based on the hypothetical condition that the site as a whole is not contaminated.

#### **4.62 THE WAIVER VALUATION PROCESS**

The Waiver Valuation process estimates fair and just compensation for the property owner. This procedure can be used for minor, uncomplicated acquisitions where compensation to the property owner does not exceed \$10,000 in accordance with 49 CFR Part 24. This procedure cannot be used when either severance to the remainder or condemnation is anticipated.

Qualified staff/knowledgeable individuals or consultants must make the determination as to when to apply this abbreviated valuation process to estimate just compensation based on available data. The process used will be in compliance with the approved process with no deviations permitted. In accordance with 49 CFR Part 24, section 24.102 (2)(ii)(B); the person performing the waiver valuations will have sufficient knowledge and understanding of the local real estate market; be generally knowledgeable of land values, and the URA to be qualified to make the waiver valuations.

Qualified staff or consultants may prepare compensation estimates. To be qualified to prepare compensation estimates, the preparer must be generally knowledgeable of appraisal principles and land values, particularly property types similar to the property being acquired. Compensation estimates should be based on current land values in the market area and should be applied consistently to all parcels in a construction project. The individual preparing the valuation may also negotiate the real property if the value is \$10,000.00 or less (per 49 CFR Part 24.102(n)(3)). Refer to section 4.46 for additional information regarding strip acquisitions.

. The intent is to free up appraisal staff; the agency must still have a reasonable basis for a waiver valuation, this is where the Department's non-appraisal staff with appropriate education and training do the work. An understanding of ROW mapping and plans, boundaries, cross sections, drainage, etc. is key to knowing what laws and regulations they are complying with

In order to determine whether or not an acquisition is "uncomplicated," the following types of questions must be answered:

- Is the estimate over \$10,000 based on a review of available market data? \*
- Is the acquisition anything more than a strip acquisition?
- Are buildings, wells, signs, etc. affected?
- Is the acquisition severing any buildings from remainder? \*
- Are trees, shrubs, or any other landscaping involved?
- Is the proposed ROW line closer to any building after the acquisition to require analysis of possible proximity damages?
- Is access to the property changed or limited? \*
- Is current highest and best use of property going to be changed as a result of the acquisition? \*
- Does a significant amount of the total compensation involve items other than land value?
- Is there reason to believe this parcel will proceed to Condemnation?
- Is more land than actually needed being acquired?
- Is there a change in grade, drainage, driveway modifications, etc?
- Are there any other considerations that complicate the valuing of this parcel?
- See section 4.47 for damages discussion

For questions with \*, a YES response requires an appraisal.

If one of these questions is answered "yes," the acquisition might still be considered "uncomplicated." Multiple "yes" answers would indicate that the acquisition couldn't be considered to be uncomplicated. A single "yes" answer would need to be further analyzed to decide whether the indicated situation causes the acquisition to become complicated and thus require the acquisition to be appraised.

This list of questions is not intended to be all-inclusive. The key to use of this method of determining compensation is that impacts of the acquisition are minimal or can be easily measured by their cost to cure.



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**4.63 APPRAISAL REVIEW FORMS**

**STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF TRANSPORTATION  
 BUREAU OF RIGHT-OF-WAY**

**REVIEW APPRAISER'S SUMMARY**

FROM: REVIEW DATE:  
 TO: PROJECT:  
 OWNER: PARCEL #:

	#1	#2	#3
APPRAISER(S):			
BEFORE VALUE:	\$	\$	\$
AFTER VALUE:	\$	\$	\$
TOTAL DAMAGES:	\$	\$	\$
PART TAKEN:	\$	\$	\$
SEVERANCE:	\$	\$	\$

IMPROVEMENTS  
 ACQUIRED  
 EFFECTIVE DATE  
 REPORT DATE

TOTAL DAMAGES APPROVED \$

PRO-RATA ESTIMATE \$  
 EFFECTIVE DATE OF REVIEW:

REVIEW APPRAISERS ANALYSIS:

I find the methodology and application acceptable. I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation.

Methodology used in this report is appropriate but the application somewhat weak. However, based upon the available market data the damage estimate appears reasonable I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation.

Although the methodology is only fair and the application somewhat weak, the available market data suggests that the damage conclusion is reasonable. I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation in spite of the obvious deficiencies.

I find the methodology acceptable but the application is poorly done. The above damage conclusion is not supported. I accept it as it meets all requirements, but do not recommend it as the basis for the establishment of the amount believed to be just compensation.

I do not accept this report because it is deficient with regard to both methodology and approach application, value conclusion is unsupported.

#### Before and After Same as Part Taken - No Severance

Inasmuch as there is no diminution in the value of the remainder the estimated contributory value of the part taken in this report coincides with the indicated damages resulting from a "before and after" analysis.

#### Before and After - With Severance

The estimated total damages reported above result from the correct application of a "Before and After" valuation methodology. The allocated value of the part taken represents a mathematically correct pro rata share of the "before" land value, the depreciated value of acquired site improvements, and a consideration of losses created by the imposition of easements, if any. Severance damage represents the residual difference between total damages and the allocated part taken.

#### Total Take - No Remainder

As this is a total acquisition the appraisal concerns itself only with the property as it is prior to the taking. Total Damages are equal to the property's estimated Market Value on the date of appraisal.

#### Before and After - No Severance - No Difference in B & A Values

The appraiser has completed a before and after appraisal and concluded that there is no difference between the Before and After values, therefore, damages are zero. While this, at first, may appear to be unusual, in reality it occurs quite often.

Small takings from vacant parcels, or improved parcels where the cost approach is the most applicable method, may be measurable by way of a contributory land value analysis. However, these same small takings may not be directly measurable by way of income and market approaches.

If the taking results in no measurable change in income earning ability, as measured by rentals and expenses, or utility and desirability as measured by improved sales, then total damages are property concluded to be zero. There is no pecuniary loss if the property is worth as much after the taking as it was before. For this reason I have approved a nominal award of \$500.00 for use by the client, in accordance with Department policy.

Department policy, per the AG's memorandum dated February 8, 1993, requires the appraiser to estimate the pro rata value of the part taken when a before and after appraisal indicates no damages. This pro rata calculation does not represent the market value of the part acquired and it cannot, therefore, be approved as damages. It is, however, recognized as being mathematically correct and I have approved this figure for use by the client in accordance with Department policy.

#### Before and After - Severance with no Measurable Value of Part Taken

The appraiser has completed a before and after appraisal and concluded that even though the part taken, by itself, has no measurable contributory value, there is a diminution of value of the remainder.

While the part taken, and any site improvements acquired, may be allocated on a calculated pro rata basis, market data suggests that this would be unrealistic. The value of the after parcel, before consideration of severance, is essentially the same as the value of the before parcel. To reflect this situation a small nominal figure has been assigned to the part taken. The balance of the total damages has thus been allocated to severance.

#### **USPAP REVIEW DISCLOSURES**

The State of New Hampshire Department of Transportation (NHDOT) Right-Of-Way (ROW) Bureau is my client for this appraisal review, with the only intended users being its agents and officials. The intended use of this review report is to document and support my approval of the subject appraisal for use by the client. The purpose of the review was to evaluate the appraisal's compliance with client guidelines, URA, the Uniform Standards of Professional Appraisal Practice (USPAP), and appropriate portions of the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

For this review I have:

1. Field inspected the subject and all sale/rental properties involved in this appraisal.

2. Reviewed the report to ensure compliance with all current applicable state and federal specifications and laws.
3. Reviewed the report to ensure that the appraisal has been prepared in accordance with accepted appraisal principles and that it meets all aspects of the URA and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation and UASFLA as applicable.
4. Reviewed the report to ensure that it contains information to properly explain, substantiate, and document the descriptive material and the estimates of value contained therein.
5. Reviewed the report to ensure that the report includes all compensable items but does not include compensation for non-compensable items.
6. Request, obtain and review additional information, corrections and revisions to ensure that all of the above is met.
7. Prepared this report to communicate my findings.

### REVIEW CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The facts and data reported by the review appraiser and used in the review process are true and correct.
- The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.
- My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Act and Uniform Standards of Professional Appraisal Practice and UASFLA.
- I personally inspected the subject property of the report under review.
- No one provided significant appraisal, appraisal review, or appraisal consulting assistance to me for this assignment.
- Based on the approved appraisal and my analysis, the compensation offer of [amount] as of [date] is hereby approved for purposes of determining the amount of just compensation.

\_\_\_\_\_  
Review Appraiser:

\_\_\_\_\_  
Date



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION  
 BUREAU OF RIGHT-OF-WAY - APPRAISAL SECTION  
 "FINDING OF FACT"**

PROJECT:  
 OWNER:

PARCEL NO.

APPRAISER:		
DATE OF APPRAISAL:		
VALUE BEFORE TAKING:		
VALUE AFTER TAKING:		
DAMAGES:		
APPROVED:		
CONSIDERED:		
REJECTED:		

This is to certify that I have personally inspected the above property and reviewed the above mentioned appraisal report; that I have no present or contemplated interest in the property owner, real property or mortgagee; that I have given due consideration to the above mentioned appraisal reports and attached documents in determining the value of the real property damage and special benefits to the remainder, if any, to the extent allowed under New Hampshire law; and that in my opinion the fair market value of the real property is as follows:

Review Appraiser's Determination of Market Value

BEFORE TAKING:  
 AFTER TAKING:  
 DAMAGES:

\_\_\_\_\_  
 Review Appraiser

\_\_\_\_\_  
 Date





Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

STATE OF NEW HAMPSHIRE  
INTER-DEPARTMENT COMMUNICATION  
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION  
BUREAU OF RIGHT-OF-WAY - APPRAISAL SECTION  
APPROVAL LETTER

FROM: \_\_\_\_\_  
SUBJECT: \_\_\_\_\_  
TO: \_\_\_\_\_

Based on the approved appraisal and my analysis, I hereby approve the following for purposes of determining the amount of just compensation.

Before Value \_\_\_\_\_  
After Value \_\_\_\_\_  
Value of Part Acquired \_\_\_\_\_  
Severance Damage \_\_\_\_\_  
Damages \_\_\_\_\_  
Pro-Rata Estimate \_\_\_\_\_  
Appraiser \_\_\_\_\_  
Review Appraiser \_\_\_\_\_  
Effective Date of Appraisal \_\_\_\_\_  
Building Taken \_\_\_\_\_  
# Appraisals Considered \_\_\_\_\_  
Accepted and Approved as Just Compensation \_\_\_\_\_

cc: Appraisal File   
Circulated Copy



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

STATE OF NEW HAMPSHIRE  
INTER-DEPARTMENT COMMUNICATION  
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

BUREAU OF RIGHT-OF-WAY - APPRAISAL SECTION  
APPROVAL LETTER AG UPDATE

(Date)

\_\_\_\_\_

FROM: \_\_\_\_\_

SUBJECT: \_\_\_\_\_

TO: \_\_\_\_\_

The original appraisal on the above parcel has been updated by appraiser \_\_\_\_\_,  
and this update has been reviewed and the following approved: (This supersedes the original  
approval of a report of \_\_\_\_\_.)

Before Value	_____
After Value	_____
Value of Part Acquired	_____
Severance Damage	_____
Damages	_____
Pro-Rata Estimate	_____
Appraiser	_____
Review Appraiser	_____
Effective Date of Appraisal	_____
Building Taken	_____
# Appraisals Considered	_____

cc: Appraisal File

### Waiver Valuation Policy Sample

Date: November 1, 2012

Re: NHDOT Waiver Valuation Policy

In accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" (URA); § 24.102 (c)(2)(ii), if, "The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data.", said Agency is permitted to use waiver valuation to determine compensation.

The New Hampshire Department of Transportation Bureau of Right-of-Way has the following policy in determining waiver valuation compensation:

- A Waiver Valuation team, consisting of the ROW Engineer, Chief Appraiser, Chief Agent, (or their qualified designees on a project specific basis) and the Acquisition Agent.
- The team shall perform a field overview of the project and shall conduct a preliminary inspection of the properties and proposed impacts to determine the appropriate use of waiver valuation.
- The Department will have a qualified person collect supporting market data used to set just compensation; the Department will consider a person qualified, who has sufficient understanding of the local real estate market. Waiver valuation data will be filed in the Right-of-Way Management System (ROW MS) under the corresponding construction project and Estimate of Compensation (EOC) sheet will be placed under the corresponding parcel. This team will then meet to determine which parcels are uncomplicated, are of low value, and meet the criteria for Waiver consideration, as identified in the ROW Manual; and which parcels will require an appraisal.
- The team then determines, based on the size, type and duration of the required impacts, a reasonable and supportable value, using established procedures and comparable market data collected, to set just compensation.
- Once compensation has been set, the ROW Agent will make all attempts to meet with the owner to present the offer; the Agent may mail the offer by certified mail at the owner's request, in the event that a meeting in person is unfeasible. If no contact can be made with an owner the Chief Agent will request an appraisal. When the Agent meets with the owner(s), they will explain the waiver process and inform the owner(s) of their right to request an appraisal. If the property owner(s) agree(s) to the offer, the Agent will obtain a signed Notice of Offer and a Deed. If the property owner(s) does not agree with the nominal offer, the Agent will request an appraisal and the Eminent Domain process will commence.

## **CHAPTER 5 – NEGOTIATIONS**

### **5.01 GENERAL**

#### **A. PURPOSE**

The purpose of this chapter is to outline the process to be followed in compliance with Federal and State laws and applicable regulations for the acquisition of real property through the use of negotiations.

The acquisition of property rights that are needed for ROW is an essential element in the highway project development process. It is the Department's acquisition policy to be respectful and sensitive to owners concerns and rights under Federal and State laws and regulations.

The Department's policy is to acquire the necessary property rights by direct negotiations with the property owner(s) prior to condemnation. This requires personal contact with owners, providing full information about the project and its effect on their property, as well as presenting written offers of just compensation based on supported valuation. As a last resort the Department uses the procedure identified in RSA 498A, the Eminent Domain Act to acquire the necessary property rights.

This chapter defines the policies and practices at the Department that promote the goal of amicable acquisitions while simultaneously promoting efficient and timely delivery of ROW for project construction. It is also intended to promote public confidence in the Department's highway program and protect property owner rights as required by Federal and State laws and regulations.

#### **B. ORGANIZATION**

Staff members who are trained and qualified as Agents perform a dual role as negotiating and relocation agents (See Chapter 6 for Relocation). Agents who are assigned as the negotiator will perform all acquisition activities necessary to secure those property rights required for the Department highway projects. The Agents operate under the direction of the Chief Right-of-Way Agent (Chief Agent), who works under the administrative direction of the Assistant Administrator and the Administrator. All ROW activities are centralized in the John O. Morton State Office Building in Concord.

### **C. QUALITY ASSURANCE/QUALITY CONTROL (QA/QC)**

QA/QC is the basic activities that the Agent section uses to insure that the ROW acquisition process is effectively being accomplished within the established goals and objectives of the Department.

QA/QC includes policy guidance, program management tools and specific training necessary to insure that responsible personnel are conducting ROW operations in an effective and efficient manner. The various activities used to test and evaluate program activities form the basic elements of the QA function.

ROW personnel at all levels share a responsibility to strive to improve operational quality. This can be attained by the following tasks:

- The Bureau follow up with owners after acquisition process is complete,
- Supervisor review of all documentation prior to closings and payment authorizations,
- Peer review of files before marking a file as completed,
- Identify personal training needs, and
- Share personal best practices with others.

## **5.02 AGENTS DUTIES**

### **A. RESPONSIBILITIES AND DUTIES OF THE CHIEF RIGHT-OF-WAY AGENT:**

The Chief Agent is responsible for, with the assistance of the Agent Supervisor as necessary, supervisory work in directing the activities of Agent section. The Chief's actions are required to comply with Federal and State regulations, including:

- Evaluates the Department program objectives and develops schedules for acquisition and relocation activities,
- Evaluates project needs and assigns appropriate level agents to highway projects,
- Recommends Commission members with assistance of the Hearing Coordinator,

- Develops and monitors the application of negotiation and relocation methods, closing activities, record keeping, and documentation
- Lends expertise by conducting negotiations, analyzes and resolves unique issues which arise on difficult and controversial properties.
- Active with training new employees
- Makes recommendations to the Assistant Administrator, Bureau Administrators, other State Agencies, and the general public, regarding ROW acquisition activities.
- Assists with the management of functional replacement of publicly owned structures to be acquired for projects to provide replacement structures.
- Assists the Assistant Administrator as needed with municipalities or other agencies when requested to oversee compliance with the Federal Uniform Relocation Act.
- Appears as a witness for semi-judicial and judicial bodies for the Department and other Public Agencies regarding Eminent Domain and appeals of relocation assistance payments.

**B. RESPONSIBILITIES AND DUTIES OF THE RIGHT-OF-WAY AGENT SUPERVISOR:**

The Agent Supervisor is responsible for overseeing the daily activities of the Agent Section. The Agent Supervisor is responsible for implementing the Department's and Bureau's policies and procedures, including:

- Supervises the operation of the acquisition and relocation program and responsible for the evaluation of employee work performance.
- Recommends plans and evaluates the implementation of program objectives, including developing and revising work methods and procedures of subordinates for the acquisition of property and relocation of individuals and businesses. Recommends actions required to comply with Federal, State and Local government requirements.
- Assures that all groups or individuals affected by the Department's projects receive advisory and financial relocation assistance benefits in accordance with URA and State Law.
- Oversees the development of relocation conceptual studies to compare project alternatives and cost estimates.

- Represents the Department at public and inter-agency meetings to explain relocation assistance and property acquisition procedures.
- Appears as a witness for semi-judicial bodies for the Department regarding Eminent Domain and appeals of relocation assistance payments.
- Conducts negotiations, and analyses and resolves unique issues which arise on difficult and controversial properties to provide additional expertise required.
- Provides consultation with communities and other agencies on compliance with the URA
- Recommends solutions to the Department and general public on ROW questions and reviews recommendations made by subordinates.

**C. RESPONSIBILITIES AND DUTIES OF THE RIGHT-OF-WAY AGENT:**

The Agent is the principal representative of the Department in the negotiations for rights-of-way. The Agent is responsible for securing the necessary property rights on highway projects, by direct negotiations or by Eminent Domain.

Agents act as the primary point of contact for owners during the ROW process. Agents are responsible for:

- Attending the public hearing, processing award claims, maintaining records in the ROWMS, scheduling appointments, and creating record plans. There are the occasional projects, which do not require a public hearing, due to the impacts being minimal in nature. Therefore no Commission is required; and the Agent may act as the Department's sole representative.
- Must be fully informed as to the exact location of impacts to property being affected by the project.
- It is the responsibility of the Agent and Chief Agent, in conjunction with the Agent Supervisor, to review the extent of impacts when preliminary plans are received.
- Upon receipt of a just compensation estimate based on a Waiver Valuation, a Land Value Appraisal (LVA) or a before and After Appraisal, the Agent prepares property owner packets.
- Using plans, cross sections and other supporting documentation, Agents should be prepared to describe the extent of property acquisitions, including:

- Improvements, or portions of improvements, in the proposed ROW;
- Any impacts the ROW, easement lines, sidewalk area, curb line and edge of traveled pavement may have to the property;
- Drainage, slope or other easement provisions;
- The approximate height and depth of cuts and fills;
- Differences between the existing road and any changes proposed thereto, particularly regarding changes in the grade in front of the property or near any buildings, construction of guardrails, shoulders, curbs or other facilities, etc.;
- Any areas subject to access control;
- Existing property pins and explaining the procedures for replacing them;
- Anticipated dates and/or timeframes when the project will be started and finished;
- Acquisitions using RSA 498A, the Eminent Domain Act.

Agents are responsible for gathering the necessary information required to present an offer to a property owner(s). The Agent's source of information must include discussions with the Assistant Administrator, Appraisers and if needed the Design Engineer, including studying of reports and plans.

The Agent should review the actual site, walking the area if feasible, to become familiar with the project and its impacts. The more the Agent knows of the project and the concerns of property owners involved, as voiced earlier, the better the Agent will be able to negotiate for the purchase of the land rights.

During discussions with a property owner, the Agent will provide an overview of the project, an accurate and comprehensive explanation of the plans, cross sections, appraisal (including a breakdown of the total damages if applicable, retention and/or replacement of improvements), approved just compensation, pro-ration of taxes and incidental expenses (if applicable). The Agent will obtain answers to questions as necessary, with the objective being to reach an agreement with the owner. The Agent will inform the property owner of their legal rights, including rights to appeal through the State's Eminent Domain proceedings under RSA 498-A and the Uniform Relocation Act rules under Title 49, part 24. The Owner is provided with a copy of the Department's brochures which describe the land acquisition and relocation processes and the State's and the owner's obligations.



The Agent is the representative negotiator for the Department. The Agents' responsibilities and duties include but are not limited to the following:

**Creating an Acquisition File:**

The Acquisition file serves as a permanent record of all required forms and contact with property owners. It includes, but is not limited to:

- Completed parcel related forms,
- Parcel related correspondence,
- Summaries of discussions with the owner(s),
- Pertinent information about the project or schedule,
- Counteroffers,
- Proposals for retention of items,
- Real/personal property determinations, and
- Any other useful data obtained,
- Check list. (See Appendix on page 202)

The file content is an informational data source to the negotiating Agent and any person who is subsequently assigned to work on the project. It is also necessary to present a full record of the case to document claims, for audit purposes, and to support Board of Tax and Land Appeals (BTLA) and Superior Court proceedings.

The files should be arranged in the sequence in which they occurred. Good file maintenance practices should be applied. The Agent is responsible for insuring that the parcel file is complete and that all of the previously noted correspondence, agreements and other documents are present. In addition, the Agent will review the content of all documents to insure that there are no errors or omissions.

The purpose of the acquisition forms, included in the parcel file, is to insure that all information the Department is legally required to provide property owners is properly presented. In addition to the forms, it is important to provide a checklist of items that should be discussed with the property

owner(s). The Agent should realize that information on pre-designed forms cannot anticipate the wide variety of acquisition situations that will be encountered. If certain important information is not addressed in the forms, or if information or items called for in the forms does not seem relevant, the Agent should consult with the Agent Supervisor or the Chief Agent.

When preparing the file for final review, cull unnecessary papers from the file before it is placed in the management system. The confidentiality of these documents needs to be carefully considered and protected prior to scanning them into ROWMS. As soon as the file is completed the Agent will turn it over for peer review. Once the file has been reviewed, the reviewing Agent will notify the Agent Supervisor or Chief Agent to mark file as checked in ROWMS.

#### **Creating an Offer Packet:**

- Update title abstract (if over 6 months old and as necessary),
- Review Appraisal or Waivers,
- Agent initiates request for “approval only” of Just Compensation (only if amount is over \$5,000.00), for G&C agenda item
- Copy of the Appraisal Report,
- Full size plan sheet(s) colored-up to show impacts clearly,
- Written Offer of Just Compensation Form (3 copies),
- W-9 w/ pertinent info (only on acquisitions over \$600.00),
- Tax pro-ration form populated w/ pertinent info (only on acquisitions w/ fee impacts),
- A copy of the Easement or Deed document,
- Copy of “Your Land and New Hampshire’s Highways”,
- Business Card,
- Satisfaction Survey Receipt Method Preference Card,
- Cover Letter (if mailing offer).

### **Presenting the Written Offer of Just Compensation:**

- Make personal contact, if possible, with the owner; every reasonable effort must be made to contact each owner, or the owners' designated representative, by phone, letter, or personal visit. As a last resort, presenting the offer by mail is acceptable after the initial contact is made or after all reasonable attempts to make contact have been exhausted.
- Fully disclose the effects of the proposed property impacts and rights to the owner. Inform the landowner with whom negotiations have been conducted of any changes which may affect the property, whether compensable or not. Explain to the property owner their rights under the Eminent Domain Act and provide them with an expected time line to the process. This should include how long the acquisition process will take, and what actions may be expected of the property owner with respect to the State assuming possession.
- Give the property owners and or personal representatives, if they desire, the opportunity to examine the plans and be prepared to explain the impacts.
- Provide the property owner with a copy of the brochure titled "Your Land and New Hampshire Highways", which states that the Agent does not represent the rights of the property owner(s) and they may want to obtain independent advice or unbiased counsel, per RSA 498-A: 4 (I), or, if relocation is required, a copy of the booklet titled "Public Projects and Your Property", which covers the subject in detail.
- Provide the owner with a copy of the appraisal or Estimate of Compensation form, valuing the impacts to the property.
- Provide the owner with a copy of the Offer of Just Compensation form or the Estimate of Compensation form; indicating the State's written offer of just compensation. These documents shall contain, but are not limited to, the following:
  - Owners Name
  - Date of offer
  - Mortgages, liens, attachments
  - Amount of offer,
  - Description of acquisition, i.e.: buildings, land area, easements
  - Salvage Value (if applicable)

- Replacement Housing Pavement,( if applicable)
- Explanation of the right to receive payment for pro-ration of taxes
- Offer to acquire any uneconomic remnant of land as a result of the highway acquisition.
- Explain and provide owner with a copy of IRS W-9 form requesting Taxpayer Identification Number and Certification.

#### **D. CONDUCT OF A RIGHT-OF-WAY AGENT**

While negotiating with the property owner(s), a number of guidelines should be followed:

- The Department does not represent the rights of owners impacted by transportation projects. The Agent shall always keep in mind that he/she represents the public in an agency capacity with all the responsibility that is associated with that relationship, while keeping in mind that the owner with whom he/she is negotiating is part of the public.
- The Agent's first impression to the owner is important. A neat, conservative appearance and a friendly manner will go a long way in making a positive impression.
- The Agent will call the owner to make an appointment to discuss and explain the acquisition. Unannounced visits should be avoided. If the Agent is unable to make contact with the property owner, the Agent may make an unannounced visit, at their discretion.
- The Agent shall exercise care at all times to completely and honestly explain the process and the property owner's rights, especially of those who may be unfamiliar and inexperienced in real estate matters. High-pressure sales tactics are not permitted in ROW negotiations. The Agent shall never use the threat of condemnation, even by inference, to effect a settlement.
- The Agent will keep in mind that as far as they are concerned, every appraisal, every offer, and every settlement is a confidential matter until the Governor and Council grants approval of the award of damages. When an owner brings up the question of the terms of settlement with a neighbor, the Agent is advised to courteously reply, such information is confidential, and all are offered equal treatment for all owners provide for equal treatment for all owners. The Agent is specifically enjoined, per direction from the AG's Office, from giving "Mr. A's" appraisal to "Mr. B." while in the process of negotiations.

- The Agent will guard against indiscriminate remarks, which can be misunderstood. It is best for the Agent to limit discussions to, the offer and the physical effects of project construction on the property.
- The Agent should avoid discussions on politics, religion, or other matters, which may become argumentative. Politics and religion are sensitive subjects with many people and it is wise to avoid disagreement in the discussion of such topics when agreement is being sought in the offer to acquire property. This is not to say, pleasant conversation should be avoided, as it is a distinct asset in the effort to reach an agreement.
- The Agent should carry out the negotiations as expeditiously as possible without actually, or appearing to be, “rushing” the property owner. However, it is important that long delays between calls be avoided.

Concerning an Agent’s conduct and code of ethics, all Agents shall agree to the following when conducting negotiations:

- The written agreement embodies all considerations agreed to between the Agent and the property owner;
- The Agent understands the acquired property is for use in connection with a Federal-aid highway project when applicable;
- The Agent has no direct or indirect, present or contemplated future personal interest in the property or in any monetary benefit from the acquisition of the property; and
- The agreement was reached without coercion of any type.

#### **E. DUTIES OF THE COMMISSION OF THREE PERSONS**

The Commission oversees the ROW acquisition process as an impartial observer. When feasible, the Commission will inspect the acquisition area with the owner and provide any assistance to help the owner better understand how the property will be affected by the impacts. The Agent, while not a Commission member, performs all duties required obtaining the necessary property rights.

It is recommended that one member of the Commission be invited to attend the initial meeting of the negotiation process. If for some reason this is not possible, the Chief ROW Agent may designate another individual to serve as a witness.

## **5.03 PROJECT PROCESS**

### **A. ASSIGNMENT OF AGENT**

Agents will be selected to complete all aspects of the negotiation and relocation process based on the skill level required to successfully complete the respective process. Ideally the Agent administers the process, starting with the Public Hearing and follows the project through to completion. When ROW plans are submitted or individual appraisals are received, the Chief Agent will finalize this selection, with input from the Agent Supervisor.

### **B. PROJECT SITE OVERVIEW**

When preliminary purchase plans are received, the Chief Agent and the assigned acquisition Agent will perform a project overview with the Chief Appraiser and Assistant Administrator.

During a project overview, the Chief Appraiser, Chief Agent, Assistant Administrator and assigned Agent will review the project and discuss any issues that need resolution or investigation prior to the acquisition of ROW. During the overview, the Chief Appraiser, Chief Agent and Agent will identify those parcels that may qualify for waivers and which parcels will require an appraisal.

During this overview, the Chief Appraiser and Chief Agent will identify any items of improvement that will be included under relocation and those to be considered within the appraisal. The Agent will create an Inventory of Improvements list. (See section 6.03(B) (1) for additional discussion)

### **C. WORK FLOW**

Upon receipt of the approved Just Compensation, Agents should make a minimum of 4 attempts to contact owners. All attempts should be made, to present offers, in person or by mail, within 30 days of receipt of the just compensation approval.

30 days after presenting the offer: if negotiations are not finished, prepare a draft condemnation package and give to the Agent Supervisor for review and notify the Chief Agent. The Chief Agent will coordinate with the Assistant Administrator to review prospective condemnations and to set up a Commission meeting. After the Agent Supervisor has reviewed the condemnation package, the Agent Supervisor or Chief Agent may have the Agent forward it to the Administrative Section where a draft copy is prepared and sent to the AG's office for review prior to the Commission's vote.

After receiving the Draft Condemnation back from the AG's office, the assigned Agent will address any questions or concerns raised in the AG review. The Agent will have the title updated and then request the check for deposit with the NHBTLA. Once the title is updated and the AG's concerns are addressed the Agent will request that the Legal Secretary from the Administrative section mail the Notice of Offer (NOO). This does not stop negotiations. It is meant to have the Bureau in a position to acquire title in the event negotiations are unsuccessful. Per RSA 498-A, the Department has 90 days, from the expiration of the NOO, in which to file the Declaration of Taking and record a Notice of Condemnation.

#### **D. NEGOTIATIONS WITH OWNERS**

Agents will make all attempts to contact the property owner, to discuss in person, the project and the ROW acquisition process. However, in the situation with out-of-state owners, or when requested specifically, it may be more practical to provide the initial written offer of just compensation to the owners by mail. A letter accompanying the offer should embody the same information that would be presented in a personal meeting. An offer packet to the owner will be sent certified mail or emailed with a return receipt requested.

The Agent will obtain whatever information is necessary to complete the required offer packet, which consists of the Written Offer of Just Compensation form, a copy of the appraisal; or in the case of a waiver the Estimate of Compensation form, a colored copy of the ROW plan with cross sections, copies of the W-9 form and pro-ration of property taxes form, a copy of the brochure "Your Land and New Hampshire Highways" or if relocation is required, the brochure "Public Projects and Your Property." and a business card.

At the time the offer is presented, the Written Offer of Just Compensation form must be signed by the Agent and the member of the Commission, or witness, who is present. (On projects where the Agent is acting as the Department's sole representative, only the Agent's signature is required) The offer-agreement should note any special requests made during negotiations. The Agent will discuss these additional items with the Chief Agent and Agent Supervisor, and get pre-approval from the Assistant Administrator and/or Project Manager for any work items that should be included in the project contract documents. In general this is the final understanding with the property owner as to how the property will be left when the project is complete.

If, at the initial offer meeting, the owner wishes to have more time to contemplate the offer, the Agent will leave two copies of the offer agreement. One copy to be signed and returned to the Agent, the other to be retained by the owner along with the documents listed above, for their records. The property owner shall be given no less than 45 days in accordance with RSA 498 – A: 4, II (f), to consider the offer, and obtain their own appraisal and/or professional advice or assistance if desired.

The Agent shall make the owners aware of their right to be reimbursed for the cost of their own appraisal up to the amount of \$1000.00 in accordance with RSA 498 – A:4 II (b).

Requests by the landowners for additional monetary compensation over and above the estimate of just compensation based on factual data such as more recent sales, a current independent appraisal, or items that might have been overlooked, will be submitted for consideration to the Chief Agent and the Chief Appraiser. If the landowners request is deemed reasonable, the Chief Appraiser may add additional compensation to the initial offer by revisiting the fair market value and just compensation determinations.

If a request for additional monetary compensation over and above the approved amount of just compensation is requested beyond the scope of adjusting the appraisal, the Agent may draft an Administrative Settlement Letter, and submit it for approval. See the “Owner Accepts Offer” Section E for further information on the administrative settlement process.

If the owner is left with an uneconomic remnant, the Agent will also offer to purchase it for the approved estimated value of just compensation, at the onset of negotiations. If the owner(s) agree, a revised offer and plan shall be provided to the owner.

All offers of just compensation to be awarded are submitted to the G&C for approval by the Agent via the ROWMS. This process will route the award through the Administrator for consideration.

#### **E. OWNER ACCEPTS OFFER**

Once the owner accepts the State’s offer and the signed offer-agreement form is returned to the Agent, the Agent will submit the executed offer-agreement to the Chief Agent for approval. Upon receipt of the check, the Agent arranges to take title with the property owner(s). Once the property owner(s) have received compensation, title is taken and the document is recorded at the County Registry of Deeds.



## **F. ADMINISTRATIVE SETTLEMENTS**

Upon receipt of a written counteroffer from the property owner for additional monetary compensation over and above the approved just compensation, the Agent will confer with the Chief Agent and Assistant Administrator as to the reasonableness of the counteroffer. The counteroffer should state the reason(s) for the request. If an owner's counteroffer is deemed reasonable, and in the best interest of both the owner and the State, the Agent will prepare an administrative settlement letter providing details of the requested settlement and requesting approval. Upon receipt of the signed approval the Agent will submit for the additional approved settlement amount.

\* The ROW Administrator can approve Administrative Settlement requests, up to a set amount, per Department policy. All other requests are routed to the Commissioner for approval.

## **G. MORTGAGE/PARTIAL MORTGAGE RELEASES AND TAX LIENS**

On complete parcel acquisitions, the Agent will prepare and secure a release from all mortgages and lien holders on the property to be acquired. The deed to the property must be executed first, and then the mortgage(s) and/or lien(s) will be paid, with the release(s) being forwarded to the Agent for recording.

On partial acquisitions, the Agent will prepare and secure partial mortgage releases, subordination agreements, or lien releases on strip acquisitions or easements when the acquisition is greater than \$5,000.00. These release(s) must be obtained prior to the execution of the deed for the acquisition from the property owner.

The Agent will record at the appropriate registry all release(s) along with the deed or easement document.

\*If any mortgages, judgments or liens cannot be satisfied and/or releases obtained the Agent will inform the owner(s) and prepare the necessary paperwork for

## **H. DONATION OF RIGHT-OF-WAY**

Although it is not the Bureau's practice to solicit donations of property, nothing in this manual will be construed as to prevent a person, whose real property is being acquired for a transportation project from making a donation of such property, or any part thereof, or of any of the compensation

paid; therefore, the Department may accept a donation in accordance with the approved policy (see Appendix on page 239 for the form). For impacts over \$10,000 the owner must be offered, in writing, the option of receiving an appraisal and just compensation; a waiver valuation may be used as the basis for just compensation for values estimated less than \$10,000.

#### **I. OWNER REJECTS OFFER**

If the initial offer was based upon a Waiver Valuation and is rejected by the owner(s), the Agent, after attempting to negotiate a reasonable settlement, will submit a request for an appraisal to the Chief Agent. The request will be forwarded to the Chief Appraiser.

For all owners who refuse the offer based on a before and After Appraisal or an LVA, the Eminent Domain process is initiated pursuant to RSA 498-A. A meeting with the Commission will be scheduled to vote to acquire through condemnation. Typically, after the Commission votes to acquire by condemnation, a draft "Notice of Offer," "Declaration of Taking," are prepared by the Agent. In addition, a "Notice of Condemnation and a "Condemnation Plan" are prepared by the Administrative Support Staff and Land Titles Section, and the package is then forward to the AG's Office. Included is a copy of the updated abstract of title, copy of the Agents diary notes (including pertinent correspondence), the appraisal and a full scale copy of the ROW plan sheet.

The AG's Office will review and annotate the draft "Notice" and "Declaration" and return them to the Bureau with their comments. Upon receipt of the reviewed documents, the Agent will request a check, to be made out to, the "NHBTLA or (interested parties), in the amount of the approved just compensation, this listing should have the word "or" between the owners name and the Clerk of the NHBTLA. Once all of the AG's questions and or issues have been addressed, and the check has been requested, the final "Notice of Offer" is prepared. The owners have a minimum of 30 days from the mailing date to accept.

If the Notice of Offer is not accepted, see Chapter 7 for the Condemnation process.

## 5.04 RECORDS

### A. PROJECT STATUS

The Agent must keep an up to date and complete status of each project acquisition. Project status is tracked by the Agent by entering various dates into the ROWMS.

### B. AGENT DIARY

The Agent must keep a complete diary in the ROWMS of dates and times of all communications and progress made in negotiations. The diary is a permanent record available for details concerning the parcel involved. It will be completed immediately after each contact with the property owner. The information for each contact will include, but is not limited to:

- The date and place of all contact, including telephone calls and/or meetings and purpose of call/meeting.
- Parties of interest contacted and present at the time of negotiations
- Date the "Written Offer of Just Compensation " was presented/delivered to the owner(s)
- Breakdown of offers made (dollar amounts)
- Special Agreements
- Counteroffers
- Reasons settlement could not be reached
- Date offer was accepted/ rejected, awards submitted, closing/title taken
- Any other pertinent data

In completing the diary the Agent should avoid general statements such as, "wants more money," "feels the offer is low," or "disagrees with the engineering". Document the owner's specific objection or issues such as, a sale not considered by the Appraiser, a particular item not shown on the plans, etc. The Agent should not characterize the appraisal as to its validity, since these diaries are a part of the legal record. One of the purposes of the diary is to refresh the Agents' memory of details during negotiations, and to assist the AG's Office, at the time of Eminent Domain proceedings. It is helpful to note in detail such items as where the offer was presented, features or

impacts of the project which were noted, questions asked, or statements made relating to the plans. Items that should be noted also, are requests by the owner for changes to the plans and the Agent's reply to those requests. Each diary entry shall be entered electronically into the ROWMS, which indicates the name of the Agent and the entry date.

#### **C. PERMANENT RECORD PLAN**

Upon completion of the acquisition process the Agent must verify all the ROW acquisitions and easements purchased. Notation or changes are made to the original ROW "purchase" plan. The Agent will prepare a permanent record plan. This record plan must accurately identify all land and easements acquired for each project. (See Appendix on page 202).

#### **D. LANDOWNER AGREEMENTS**

The Agent will be responsible for the compilation of any special ROW agreements/commitments to be reviewed by the Agent Supervisor and Chief Agent. A written memorandum will be completed, dated and signed by the Agent, and submitted to the Administrator Bureau of Construction thru the Assistant Administrator. This memo will include any construction and related "Special Agreements" made between the Agent and the Owner. In addition, the memo will include: project name, federal number, State number, all parcel numbers, property owners' names, address, telephone numbers, result of negotiation if condemnation indicated date acquired, and date that temporary easements expire.

### **5.05 RELEVANT OPERATIONS AND INFORMATION**

#### **A. TITLE UPDATING**

The necessity for updating land titles of the property owners will be determined by the Agent Supervisor or Chief Agent upon receipt of acquisition plans. If the titles are older than 3 (three) months, a request to have all impacted parcels updated will be submitted to the Chief of Land Titles. Before negotiating a parcel, the Agent will check the title to determine if an additional title update is needed. Changes can and do occur on a daily basis, offers shall not be made based on titles that are older than 6 (six) months. In addition, if the Agent knows or suspects there has been a change to the title, they will request an update to confirm the title. At an appropriate time the Agent will check with the owner about the status of the encumbrances shown.

On complete acquisitions, the Agent will check for unpaid taxes, special assessments, etc. If such liens exist, the owner will be given the option of paying the encumbrances themselves, and then provide documentation of the payment to the Agent; or having that amount deducted from the acquisition payment and paid directly to the lien holder. The Agent will request the abstract be updated on the day of closing prior to acquiring title from the owner.

Owners must sign all instruments in the same manner as shown on the recorded title.

#### **B. REALTY VS. PERSONALTY**

For a discussion on Realty vs. Personality, see Chapter 6 - Relocation.

#### **C. OWNER RETENTION OF IMPROVEMENTS**

The owner of a structure, located on lands being acquired as ROW will, be offered the option of retaining those improvements at an approved retention/or salvage value. When a request for retention/or salvage value of a structure is received from the owner, the Appraiser will determine the appropriate value.

#### **D. TRANSITION OF PROPERTY FROM ACQUISITION TO PROPERTY MANAGEMENT SECTION**

Prior to transfer of property ownership and final payment to displacee, the property shall be inspected by Department representatives from the Agent and Property Management sections to ensure compliance on conditions of settlement documents of the properties.

#### **E. SURPLUS PROPERTY INVENTORY**

All Agents, upon completion of a project, shall notify the Chief of Property Management of any surplus property information. This notification shall be by email. (Also see Procedure for Recording ROW Plans and Creating Permanent Record Plans (See Appendix on page 207).

#### **F. CURRENT YEAR TAXES AND INCIDENTAL EXPENSES**

Current real estate taxes for the tract of land, purchased in fee for the construction project, can be pro-rated and reimbursed to the owner. Taxes are pro-rated as of the date title is transferred to the State. A minimum payment of \$25.00 is paid.

#### **G. HIGHER AND BETTER USE AND USING A CARVE-OUT TO DEVELOP A REPLACEMENT HOUSING PAYMENT**

In order to develop a Replacement Housing Payment (RHP) for a 90-day homeowner-occupant when the residence has no contributory value, the Agent will need to use the following as a guide:

A “carve-out” situation occurs when the appraisal designates the present use of the site as having a “higher and better use”, for example, when the highest and best use is decided to be “as vacant”, although there is a residence located on the site. Sometimes in a transitional neighborhood the commercial value is a higher and better use and the residence has zero or minimal contributory value.

#### **H. PURCHASING MITIGATION PROPERTIES AND THE NEED FOR BOUNDARY SURVEYS AND/OR ACCURATE DESCRIPTION OF MITIGATION PARCELS**

When a request is forwarded to the Bureau of ROW to purchase a mitigation parcel the ROW Administrator or the Assistant Administrator will work with The Chief of the Land Title Section and a member of the Agent staff to determine if a reasonable description of the property exists and if this description can be utilized for the purpose of appraising and acquiring the parcel. If the team determines the existing description is inadequate a boundary survey will be requested. Once the survey is completed it will be forwarded to ROW and distributed to the Appraiser and agent working on the parcel.

### **5.06 USEFUL WEBSITES**

<http://www.nh.gov/dot/org/projectdevelopment/rightofway/index.htm>

<http://www.gencourt.state.nh.us/rsa/html/indexes/default.html>

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LI-498-A.htm>

<https://www.sos.nh.gov/corporate/soskb/csearch.asp>

[www.fhwa.dot.gov/realstate/](http://www.fhwa.dot.gov/realstate/)

<http://www.hud.gov/offices/cpd/library/relocation/index.cfm>

<http://portal.hud.gov/hudportal/HUD?src=/press/multimedia/videos>

<http://www.huduser.org/portal/datasets/il/il10/index.html>

<http://www.irwaonline.org/eweb/startpage.aspx?site=IRWA2010>

<http://www.rightofwaymagazine-digital.org/row/20101112#pg1>

<http://idp.nneren.safemls.net/idp/Authn/UserPassword>

## **CHAPTER 6 - RELOCATION ASSISTANCE**

### **6.01 THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICIES ACT OF 1970 (THE UNIFORM ACT/URA)**

The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (Public Law 91-646) which became effective on January 2, 1971, and as amended, commonly referred to as the URA or Uniform Act, had a tremendous impact on all federal, state and local government agencies using federal funds in the acquisition of real property. All government agencies must fully comply with the requirements of the URA in the acquisition of properties needed for federally funded projects. Failure to comply would lead to the loss of federal funding for a project(s). The Uniform Act is codified in 49 CFR Part 24 - Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted Programs.

#### **A. PURPOSE**

The purpose of the URA is to ensure:

- Owners of real property acquired for the public good are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners to minimize litigation and relieve congestion in the courts, as well as to promote public confidence in land acquisition programs.
- Persons displaced as a direct result of public projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.
- Acquiring agencies implement the regulations in a manner that is efficient and cost effective.

#### **B. MINIMUM REQUIREMENTS**

As a minimum, relocation advisory services must be in writing per 49 CFR 24.5 and 49 CFR 24.203, and include such measures, facilities, or services as may be necessary to accomplish the following:



## 1) ADVISORY SERVICES AND RELOCATION ASSISTANCE

The Department offers the relocation assistance program to all persons lawfully residing in the United States; individuals, families, owners of businesses, farm operators, and non-profit organizations, which are displaced by a public project. No relocation payments or advisory assistance shall be provided to a person who has been determined to not be lawfully present in the United States, unless such person can demonstrate that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent or child, who is a citizen of the United States.

### RESIDENTIAL RELOCATION

The following steps are recommended for a successful relocation.

#### Residential:

- Determine the eligibility of occupants and the needs of displaced persons for relocation assistance.
- Discuss and explain the advisory services and eligibility requirements available to the displaced persons; assist in completing any applications or forms required.
- Provide current information on the availability, prices, and rentals of Decent, Safe & Sanitary (DS&S) sales and rental housing.
- Assist individuals and families in obtaining and moving to comparable replacement dwellings that meet DS&S standards.
- Supply information concerning federal and state housing programs.
- If necessary, arrange for social counseling, guidance, and assistance in accordance with the needs of those being displaced.
- Provide information relative to moving cost reimbursement options including; actual costs of moving, or move payments based on a room count schedule as defined in the URA.
- Provide information relative to other moving cost related items that are eligible for reimbursement including but not limited to; Packing and

unpacking, disconnecting and reconnecting, storage costs, moving insurance, professional services for planning, moving and installing personal property and other expenses as listed in the URA.

- Provide information relative to closing costs, increased interest reimbursement, mortgage cost reimbursements and other related costs when purchasing or renting a replacement dwelling, all in accordance with the URA
- Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to a new location.
- Provide information relative to the Displacees' right to appeal Department decisions relative to the relocation process in accordance with 49 CFR 24.10.

Business, Farms, Non-Profit Organizations:

- Determine the needs of the displaced persons for relocation assistance.
- Discuss and explain the advisory services and eligibility requirements available to the displaced persons; assist in completing any applications or forms required.
- Provide current information on the availability, prices, and rentals of comparable replacement commercial properties and locations for displaced businesses, farm operations, and nonprofit organizations.
- Provide assistance to aid in the re-establishment of the business at a new location.
- Where appropriate, refer business owners to the Small Business Administration for managerial and technical assistance and possible financial assistance.
- Provide information relative to moving cost reimbursement options including; commercial moves, actual costs of moving, a self-move based upon estimates and personal property only moves, as defined in the URA as well as fixed payments in lieu.
- Provide information relative to other moving cost related items that are eligible for reimbursement including but not limited to; Packing and unpacking, disconnecting and reconnecting, storage costs, moving insurance,

professional services for planning, moving and installing personal property, and other expenses as listed in the URA

- Provide information relative to related non-residential moving eligible reimbursements, related to the replacement site, for costs associated with; connection to nearby utilities at the ROW, professional services prior to purchase or lease of a replacement site to determine the suitability of the site as a replacement location for the displaced business, and impact fees incurred for anticipated heavy usage of utilities.
- Monitoring of the move to insure that the move is completed in a timely manner and to insure that filed claims meet the purpose of the URA.

In every case, the Department must offer the assistance and advisory services as required by the URA. A displaced person can refuse relocation services and assistance but, cannot waive their right to relocation eligibility. Refusals to accept relocation services and assistance must be thoroughly documented in the file. (Any refusal must be documented as such; waiving relocation benefits is not allowed pursuant to 49 CFR 24 Appendix a Subpart C.)

## **6.02 ADOPTION OF THE URA BY THE DEPARTMENT**

The Department adopted the URA, as amended, for all acquisitions and relocations, including all those associated with projects having no federal participation.

See 49 CFR Part 24 and RSA 124A.

### **A. PURPOSE**

The relocation program has two primary purposes:

- Provide advisory assistance to all property owners and tenants being displaced.
- Make monetary payments available to those who meet the eligibility requirements to help offset some of the costs associated with being displaced.

## **B. PROGRAM**

Relocation advisory services and assistance must be offered to:

- Every displaced person lawfully residing in the United States.
- Any person occupying property immediately adjacent to the real property being acquired when the acquiring agency determines that such person or persons are caused substantial economic injury because of the acquisition.
- Any person who (of necessity) moves personal property from real property not located within the taking as a result of the acquisition of their business or farm operation.

Advisory services and assistance must be administered on a reasonable basis commensurate with the displaced needs.

## **6.03 RELOCATION PLANNING**

### **A. PRE-HEARING**

#### **1) RELOCATION PLAN**

The following covers the Relocation Plan (Conceptual Study) as described in 49 CFR Part 24.

The first relocation activity on a project is typically the preparation of a preliminary relocation plan for each highway corridor being considered for the project. This is commonly known as the Conceptual Study.

The Conceptual Study serves two important purposes: (1) provides information considered in determining the final project location, and (2) provides information used in developing the requisite environmental study for the project. This study also provides information used in the relocation statement presented at public hearings. The study is prepared for the Environmental Impact Study, in advance of the Public Hearing and is available for review at that time. The Conceptual Study also becomes part of the Environmental Justice analysis under NEPA.

The first action to be taken in the preparation of a Conceptual Study is the collection of information to be included in the plan.

Environmental Justice Issues are studied to identify impacts to minority and/or low-income populations. The study identifies concerns early and recommends possible alternatives. Title VI and Environmental Justice considerations are integral to all surface transportation projects.

The required information should be collected as soon as possible after receiving notification from the Assistant Administrator that a plan or other acceptable map or drawing showing proposed alignments is available.

Attached to the Conceptual Study should be a relocation evaluation and cost estimate for each individual property. Information in the individual parcel estimates should include all of the following that is applicable; identification of which alignments affect the parcel, photograph(s), owner(s) of record, property type, physical address, parcel number, town/city map & lot number, business name(s) with number of employees, estimated acquisition value(s) and any and all estimated relocation costs.

For the purpose of avoiding any unnecessary concerns at this time, the individual estimated values and relocation cost estimates should remain part of the internal Bureau files but, not be made part of the environmental study. This information is not meant to be part of the public document. To insure that does not happen, redact any estimated values and costs, associated with individual parcels, from the copies that will be forwarded to the end-users of the study.

No less than 30 days prior to the hearing, two copies of the redacted Conceptual Study are provided to the Assistant Administrator, through the Chief Agent, who will then forward the copies on to the Project Manager. The Project Manager will forward one of the copies to the Bureau of Environment, for inclusion in the environmental study.

The Bureau will maintain in its files, all information related to the Study including, listings of available housing and business sites, tax cards and related information, copies of conversations with officials and any other related document used in the preparation of the Relocation Conceptual Plan.

A sample Conceptual Study is shown in the (see Appendix page 199).

## PUBLIC HEARING

At the Public Hearing for the project, the Bureau has the responsibility of assuring that those being displaced for each public project under its jurisdiction have adequate knowledge of the relocation program to enable them to take full advantage of the services and payments available. To satisfy this responsibility, the Bureau must take the following actions:

- Give full and adequate public notice of the relocation program.
- Present information about and provide opportunity for discussion of relocation services and payments at public hearings.
- Distribute copies of the Department's relocation booklet at the public hearing and hand delivered when meeting in person for the initial visit.

The Relocation Booklet, which gives an overview of the agency's relocation program, must be distributed free of charge to all displaced persons.

The distribution accomplishes two very important objectives: First, it provides displacees a written explanation of the information they need to know concerning Relocation Assistance and the reimbursements available to them. Second, it enables the Bureau to prove to others that the required information has been made available to those being displaced, satisfying legal obligations.

Displacees are notified in writing via the issuance of the 90-day Notice which notifies them of both their relocation eligibility and the minimum 90-days occupancy period. This is discussed in 6.04 (A) (4) and 6.04(B) (2).

## **B. POST HEARING**

### 1) PROJECT OVERVIEW

As part of the project overview process, the assigned Agent, determines if there are any items of personal property, such as signs, fences, private light poles, etc. that are located within the proposed ROW or work areas for the project. These items of personal property or "improvements" shall be summarized in an inventory of the improvements. The summary is commonly referred to as the Inventory of Improvements and is a memo that is prepared by the Agent and routed through the Chief Agent to the Assistant Administrator. A copy is also

distributed to the Chief Appraiser. The inventory, complete with pictures of the impacted improvements, captures a brief description of each item, the location of each item and a solution for each item such as; appraise, relocate or construction work-around.

#### PARCEL INSPECTION (SITE VISIT)

The URA prescribes that it is a requirement to identify personal property, in the appraisal report. As part of the initial appraisal process, a property owner be afforded the opportunity to accompany the Appraiser on a site visit of their impacted property (see process 6.04). The assigned Agent accompanies the Appraiser on the site visit. Coordination is initiated by the Appraiser. This is especially important on parcels that involve relocation. In advance of that visit, the agent is advised to start a folder for each displacee occupying the site.

Displacee Folder - The displacee folder will be the working file for the duration of the assignment. All documentation is kept in the folder and duplicate documentation is kept in the ROWMS. Attached to the front of the file, is a summary of salient information, relative to the relocation process for the specific displacee. This includes but is not limited to Project information, owner of record, displacee name, addresses and phone numbers of the displacement site and the replacement site, critical dates, etc. are logged on the summary sheet for quick reference. The folder should contain any and all information and documentation pertinent to the relocation of the displacee including required notices, diary notes, copies of claim submittals along with required back-up documentation, etc.

Contact Appraiser - The agent should introduce themselves to the Appraiser as soon as possible after being assigned the task of relocating the occupant(s) of a site, to be included on the site visit. The reason the agent's attendance at the site visit is so critical at this stage, is because there needs to be a determination made whether certain items should be considered real property (realty) or personal property (personality). This classifying process will help the Agent determine how to treat a particular item in the future. Classifying an item early on protects the displacee against an item not being addressed properly. Early classification also helps the Agency guard against double payments on a particular item.

Residential - Determining realty vs. personality in a residential situation is not as critical as it is when appraising a business site but, the task is not without merit. In a residential situation, items such

as heirloom light fixtures, generators, and other items an owner might typically take with them should not be considered Realty.

Business - Determining realty vs. personality, when appraising a business site, is very critical. During an appraisal of a business site, the on-site meeting should be attended by the owner, any tenants occupying space at the site, the Appraiser and the agent. The purpose of having all of these stakeholders in attendance is two-fold. First, it complies with Uniform Standards of Professional Appraisal Practices and federal requirements for allowing the owner, the opportunity to accompany the Appraiser during the site inspection portion of the appraisal process (Chapter 4). Secondly, it allows for dialogue amongst the stakeholders, regarding the definition and ultimate treatment of particular items located on the site. If a tenant is in occupancy of a unit at the site, this meeting also becomes a good opportunity for a discussion between the stakeholders, regarding what items should be designated as tenant-owned improvements with the intention being to compensate the correct party for a particular item. The early determination of the status of a particular item will make it easier to decide how to handle that item, once it is time to relocate the business to a replacement site

## **6.04 RELOCATION PROCESS**

### **A. RESIDENTIAL**

The URA allows all persons, required to relocate due to impacts from a project, to be reimbursed for actual, reasonable and necessary costs incurred during that relocation. The number one task for the assigned agent is to provide advisory services to persons displaced by a project. The agent also acts as a conduit for information and the reimbursement of eligible costs incurred during the move. The following are some of the steps involved in relocating residential displacees, impacted by a Department project.

- 1) Appraisal Notification - On acquisitions of sites where occupants may be displaced, the Chief Appraiser gives e-mail notification through the ROW management system that the preliminary appraisal is completed and now entering the review stage. This notification is appropriately



entitled "Appraisal with Relocation to Review". It contains the project name, project number, parcel number, owner's name and property description.

The Chief Agent contacts the appraisal office for the purpose of gathering pertinent information that does not appear on the Appraisal with Relocation to Review Notice. "Notice of Relocation".

#### Initiating the Residential Relocation Process

After receiving the notification, the agent schedules a meeting with the person(s) occupying each unit at the displacement site and who will ultimately become the displacee(s) from the parcel. The purpose of this meeting is to establish an early connection with the displacee(s) and also to establish the beginning of the relocation file at the office. Occupants can be either Owners, or Tenants. The relocation file is initiated by gathering some data from the occupant(s) and logging the data onto a form called the "Residential Validation and Displacee Data" form (see Appendix page 211). During the meeting, the agent will also discuss the relocation process in general terms using either the "Owners 90 Day Check List" or the "Tenants Check List" as a guide (see Appendix page 242 or 225). The check list keeps the agent on-track while discussing the many facets of the relocation process and insures that the agent covers topics that need to be covered during the meeting. Note: in the case of a tenant, it is the tenant(s) right to be informed of what is happening with the site they occupy, as a result of impacts from the project and how the relocation process will work. If a landlord is resistant to allowing the agent access to the tenant(s) on a particular site, the agent should consult with the Agent Supervisor and/or Chief Agent, for guidance on how to proceed. Options can include meeting with the tenant at an alternate location or waiting until the Agency eventually takes possession of the site to start the tenant relocation process. Project schedules will normally dictate the course of action that the Department will take to complete the relocation process.

#### Establishing the Replacement Housing Payment Eligibility

After the agent has met with the person(s) to be displaced from the site, the process of researching the available comparable replacement housing market begins. As previously stated, occupants can be either owners or tenants. Relocating them is a similar process. In 24.401, the URA requires that the Agency provide the means for the displaced person(s) to obtain Decent Safe & Sanitary (DS&S) replacement housing within their financial means. The following is a

summary of the process used by the Department to meet the requirements of the search for comparable replacement housing.

Owners: The agent will research the housing sale market in the local area for a comparable replacement dwelling for a displaced owner. The goal of this research is to develop the maximum Replacement Housing Payment (RHP) for which the displacee is eligible. The first step in determining a maximum eligible RHP, is finding at least one, but preferably three or four, comparable replacement homes that are available for sale in the general area at the time of the search. RHP funds are spend-to-get. In other words, the displacee is only eligible for reimbursement of that portion of the pre-determined maximum that is used to purchase and occupy a D.S. & S. replacement dwelling.

the most common way to research the market is through the use of the Multiple Listing Service (MLS). The MLS is an on-line tool, administered by the Concord Board of Realtors, providing current listings of houses for sale in the State. The Bureau is a member of the Concord Board of Realtors which comes with a subscription to the MLS on-line service.

The agent should also use other methods and media for searching for a comparable replacement house. Newspapers, periodicals and on-line classified sites are all good resources for finding comparable replacement housing. While driving in the area of the displacement site, the agent is advised to also pay attention for FSBO's (for sale by owner). FSBO's can be a valuable resource for finding comparable replacement housing for a displacee.

The agent will develop a short list of these possible comparable dwellings and make appointments to view the homes on the list. These appointments are for the purpose of determining comparability to the displacement site but, are also necessary to document the DS&S conditions of the listing, as set forth in the URA.

Provided that the Agent has received approval of Just Compensation for the acquisition of the displacement site, and upon settling on at least one, but preferably three or four, DS&S comparable replacement dwellings, the Agent compiles the information and back-up documentation into an RHP eligibility packet that consists of a Replacement Housing Comparison Record" form; the Residential Validation and Displacee Data" form and the Checklist that were signed by the Displacee at the first meeting; the Just Compensation approval letter and housing inspection sheet for the displacement site; one housing inspection sheet for each of the comparable used in the comparison along with MLS sheets for the comparable accompanied by any pertinent documents such as a property disclosures, etc.; and finally, a

locus map indicating the location of the displacement site and the locations of the comparable used to develop the eligibility limit (see Appendix on page 210). This packet is provided to the Chief Agent for review and approval. The Chief Agent approves the maximum RHP eligibility by signing the "Replacement Housing Comparison Record" form and returns the packet to the agent for future use.

Upon receiving approval of the eligibility from the Chief, the agent adds the approved eligibility amount to the standard offer-agreement form (Chapter 5) for presentation to the displacee during the initiation of negotiations.

Tenants: In a displaced residential tenant situation, the agent will research the local rental market in the area, with the goal of developing a maximum replacement housing payment (RHP) for which the displacee will be eligible. In order to differentiate between owner and tenant eligibilities, the RHP for tenants is commonly referred to as a Rent Supplement Payment (RSP). The first step in determining a maximum eligible RSP, is finding at least one, but preferably three or four, comparable replacement rental units that are available for rent in the general area at the time of the search.

The most common way to research that market is through the use of the multiple listing service (discussed in 6.04 A (3) (a)) The agent should also use other methods and media for searching for a comparable replacement rental dwelling such as . Newspapers, periodicals and on-line classified sites. Units for rent by owner, advertised by signs in windows or adjacent to roadways, are another good resource for finding comparable replacement housing for a displacee.

The agent develops a short list of these possible comparable rental units and makes appointments to view the units on the list. These appointments are for the purpose of determining comparability to the displacement site but, are also necessary to document the DS&S conditions of the listing, as required by the URA.

The Agent compiles the information and back-up documentation into an RSP eligibility packet that consists of a Replacement Housing Comparison Record" form; the Residential Validation and Displacee Data" form and the Checklist that were signed by the Displacee at the first meeting; a housing inspection sheet for the displacement site along with a copy of the current lease (if available); one housing inspection sheet for each of the comparable used in the comparison, along with any listing sheets or advertisements for the comparable; and finally, a locus map indicating the location of the displacement site and the locations of the comparable used to develop the eligibility limit. (See Appendix) This packet is provided to the Chief Agent for review

and approval. The Chief Agent approves the maximum RSP eligibility by signing the “Replacement Housing Comparison Record” form and returns the packet to the agent for future use.

Upon receiving approval of the eligibility, from the Chief, the agent prepares the 90 day notice, discussed in section 4 of this chapter, properly notifying the displacee(s) of their eligibility limit.

#### Required Notices

**90-Day Notice:** The Department issues a 90 day notice to all persons displaced by a project.

A notice is issued to all person(s) displaced, as defined in the URA. It is titled “90 Day Notice” and is issued to both owners and tenants who are being displaced.

This notice fulfills the federal requirement of notifying occupants that they are eligible for applicable relocation assistance.

This notice also fulfills the federal requirement of informing displacee(s), in writing, that they will not be required to move from the displacement site without a minimum of 90 days advance notice in accordance with 49 CFR Part 24.203(c))

This notice also fulfills the federal requirement of informing the displacee, in writing, that the Department is making a comparable replacement dwelling available to them, in accordance with 49 CFR Part 24.204(a), and that the Department has determined an RHP/RSP eligibility based upon that comparable.

The 90 day notice also informs the displacee that after the property is conveyed to the State, a subsequent notice will be issued defining their actual vacating date, providing at least 30 days. If the property has already been conveyed to the State, before the 90 day notice is issued, the 90 day notice is to be edited to inform the displacee that the 90 day date, included in the notice, will also serve as their actual vacating date.

The 90 day notice also includes notification to the displacee that they may be eligible to receive reimbursement of certain costs incurred in moving to a replacement site and, in the case of a displaced owner, reimbursement for certain closing costs that may be incurred when purchasing a replacement dwelling. The 90 day notice also instructs the displacee what is expected of them when they vacate the displacement site i.e. verifying the move out requirements with the

assigned agent such as how to handle the utilities and condition that the displacement property should be left in.

The 90 day notice also informs the displacee that they will continue to receive advisory services throughout the process.

In a residential owner situation, the 90 day notice should be issued at the time the offer of just compensation/RHP eligibility is presented to the owner(s). If that is not possible, it should be mailed certified in close coordination to the offer date.

In a residential tenant situation, the 90 day notice is issued as soon as the agent has an RSP eligibility approval from the Chief Agent (see Section 6.04 (A)(3)) and either issued in-hand to the displacee, or mailed to them via certified mailing.

#### Actual Vacating Notice

When the property occupied by persons to be displaced, is conveyed to the State, the Department issues an Actual Vacating Notice, informing the displacee(s) occupying the site of the actual date by which the Department needs them to vacate the premises.

The vacating date used in the actual vacating notice shall be a date no less than 30 days from the receipt of the notice by the displacee.

The actual vacating notice also notifies the displacee that they will continue to receive relocation advisory services and relocation assistance from the Department

The actual vacating notice also reiterates their responsibilities when they move from the displacement site, as spelled out in the 90 day notice.

Issuing an actual vacating notice may be waived if the displacee has vacated the displacement location, prior to the Agency establishing an actual vacating date. The file will be documented in the ROWMS.

#### Finding a Replacement Dwelling

Now the displacee(s) starts the process of finding a replacement home. The displacee may elect to purchase or rent, and move into one of the comparable homes that the agent reported in the research or, they can elect to search for their own DS&S replacement home. Listed below are some differences with how the process works for homeowners, as compared to tenants.

## Owners

After the offer of just compensation and the RHP are presented to the owner, the owner can start the process of researching whatever real estate market interests them, to find a DS&S replacement dwelling.

The agent should advise the displacee in advance that, should the cost of a possible replacement home necessitate the need to use a portion of the approved RHP eligibility to purchase the home, it is wise to add a contingency to any purchase & sale agreement (P&S).

The contingency should indicate that the agreement is contingent on the home passing a DS&S inspection, performed by a person who is qualified and properly trained in the relocation discipline of the Right-of-Way profession. This doesn't necessarily have to be an agent of the Department. Sometimes, displacees move to other states, making it inconvenient and inefficient for the Department's personnel to perform the inspection. In those instances, DOT counterparts from that particular State can be used as proxy NH Right-of-Way Agents, performing the inspection of the replacement home and reporting the results back to the assigned agent here at the Department.

Once a DS&S inspection has been completed, and the home approved for using RHP funds, the agent can request the check for the amount of the RHP that is necessary for the purchase. This process is started by assembling and completing an RHP claim packet.

After obtaining a copy of the executed P&S, the agent will assemble a claim packet for the amount of RHP/RSP that the displacee is eligible to claim. The claim packet will consist of the approved eligibility packet previously assembled (See 6.04 (A) (3)). Added to that packet shall be an executed copy of the Purchase & Sale agreement; a listing sheet for the replacement site; a housing inspection sheet for the replacement dwelling; a replacement housing inspection form; and a locus map indicating the location of the replacement and displacement sites. Completing the packet is a Claim for Replacement Housing Payment form filled out appropriately. This

packet becomes the request for payment, of the eligible amount of RHP and the official written documentation of claim process

The packet is routed to the Administrative Support Section, through the Chief Agent and the Assistant Administrator who review and approve the submittal and move the request forward (see Chapter 2).

In addition, to requesting the RHP check, the agent should be in contact with whomever the owners are working with to set up the closing on the replacement home. If there is a mortgage involved, the contact will normally be with the financial institution that is lending funds necessary for the closing. If there is no mortgagee involvement, the agents' contact might be a closing agent, a buyer's broker or the displacee themselves. At this point in the process, the agent is attempting to obtain a good faith estimate of closing costs (GFE). When the agent receives a GFE, he/she reviews each line item in the estimate for reimbursement eligibility of an Increased Mortgage Interest cost reimbursement, or Mortgage Interest Differential Payment (MDIP) in accordance with 24.401 (d) and also any Incidental Expenses that may be reimbursed in accordance with 24.401 (e). Once the review is completed, the agent requests a check through the ROWMS, supplying the Chief Agent with a completed Incidental Closing Expenses and Increased Interest Claim Form, along with the GFE as back-up documentation. After approving the request, the Chief Agent moves it forward via the approval process previously mentioned.

Because of the extended process of requesting checks through the State system, the agent will normally have the ability to only request one closing cost reimbursement check before the actual closing. Due to this process, the Agent should coordinate with the closing agent and the displaced owner(s) before the closing. Keeping a close eye on the anticipated closing costs, as the closing date nears, will allow the agent to know if the closing requested reimbursement check will be in excess of the amount actually needed at closing or if the check will be short of that amount. Both cases will necessitate an adjustment at closing and this should be discussed with the displacee ahead of time.

The agent attends the closing, bringing with them any checks pertinent to the closing. The agent returns from the closing with an executed copy of the HUD closing statement supplied at the closing and detailing all applicable costs incurred by the displacee(s).

If the amount of the check for incidental expenses brought to the closing by an agent is less than the amount actually needed, the difference will need to be accounted for at the time of closing by

the displacee. After the closing, a subsequent closing cost reimbursement check for the remainder can be delivered to the displacee at a later date.

If the closing reimbursement check brought to the closing is in excess of the amount actually needed, the agent will return from the closing with a check from the displacee, made payable to "Treasurer, State of New Hampshire", in the amount of the excess. The agent will then credit refund that amount back to the project (see Chapter 2)

#### Tenants

After receiving the 90 Day Notice containing the RSP eligibility information, the displaced Tenant should begin searching for a replacement dwelling. The tenant displacee can utilize their established RSP eligibility in one of two ways, either by renting a DS&S replacement rental unit or by applying the eligibility as a down payment towards purchasing a DS&S replacement dwelling. They are allowed to apply all of the RSP eligibility to the purchase down payment. Once a replacement is found, the Displacee notifies the assigned agent. The agent will then schedule an appointment to inspect the replacement dwelling to ensure that it meets DS&S criteria.

Provided that the replacement dwelling meets DS&S criteria, an RSP claim packet is completed and the check requested in the manner previously described in Section 5 (a) (v). The check is then delivered to the displacee(s) upon validation that they have moved into that replacement dwelling.

#### Additional rules governing Replacement Housing Payments

If possible, at least three comparable dwellings shall be examined and the payment is to be computed on the basis of the most-nearly representative of and, equal to, or better than, the displacement dwelling.

If the site of a comparable replacement dwelling, lacks a major exterior attribute that is found at the displacement site, such as a significantly smaller lot size when compared to the displacement site, or doesn't contain a swimming pool and the displacement site has one, the value of the major exterior attribute shall be subtracted from the acquisition cost of the displacement site for the purposes of computing the payment.

If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling, and the remainder is a buildable residential lot, the Agent shall offer to purchase the entire property. If the owner refuses to sell the remainder to the State, the market



value of the remainder shall be added to the acquisition costs of the displacement dwelling for purposes of computing the RHP.

If feasible, comparable replacement dwelling shall be selected from the neighborhood where the displacement dwelling is located. If that is not feasible, a comparable replacement dwelling shall be selected from nearby, similar neighborhoods where housing costs are generally the same, or higher.

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable pro-rated share of any relocation payments that would have been made had they moved together to a comparable replacement dwelling.

If the agent determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation calculations and payments.

The agent shall deduct the amount of any advance relocation payment from what the displaced person is entitled to.

This agency shall not withhold any part of a relocation payment, due to a displaced person, in order to satisfy any other obligation, including to other creditors.

If the displacement dwelling, was part of a property that contained another dwelling or space used for non-residential purposes, or it is located on a larger than typical lot, only the portion of the acquisition payment that is attributable to the displacement dwelling shall be considered the acquisition costs for purposes of computing the RHP. This is commonly referred to as "carving-out" because the agent requests the Appraiser to carve the displacement dwelling value, out of the total value for the property as a whole.

A displaced person, who initially rents a replacement dwelling, may convert a portion of the RHP for which they are eligible, into a rental assistance payment provided they meet all other qualifying criteria for such payment. The remainder of the eligible RHP may be used at a later date to purchase and occupy a DS&S replacement home.

#### Moving

When a residential occupant has located a replacement

Dwelling, a plan should be developed to move all of the personal property located at the displacement site, to the new site.

In accordance with 24.301, owner occupants or tenants who qualify as displaced persons are entitled to a reimbursement of actual moving related expenses incurred, that qualified Bureau personnel consider being reasonable and necessary.

A reimbursement of moving expenses for moving personal property from a dwelling may be based upon one, or a combination of, the following methods:

A commercial move performed by a professional mover or

A self-move performed by the displacee using one or a combination of the following methods:

**Fixed Residential Moving Cost:** In accordance with 24.302, persons displaced from dwellings, seasonal residences, or dormitories are entitled to receive a fixed moving cost payment in lieu of an actual moving cost reimbursement. The payment is determined according to the Fixed Moving cost Schedule, approved by the FHWA and periodically published in the Federal Register. The schedule is based on a room count of the displacement dwelling.

**B. Actual Cost Move:** Actual moving costs may be reimbursed as supported by receipted bills for labor and equipment. Hourly labor rates shall not exceed the cost paid by a commercial mover.

Equipment rental fees are to be based on the actual cost of renting equipment, not to exceed the cost of a commercial mover.

Eligible moving related expenses are as follows:

Transportation of the displacee and personal property;

Packing, crating, unpacking and uncrating of the personal property;

Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property. For businesses and farms this includes machinery, equipment, substitute personal property, and connections to utilities available within the building.

This also includes modifications to the personal property including:

those mandated by Federal, State and local code or ordinance;

necessary to adapt the item to the replacement structure, the replacement site, or the utilities at the replacement site ;

Those modifications necessary to adapt the utilities at the replacement site to the personal property.

## **B. BUSINESS**

In accordance with section 24.301, 24.303 & 24.304 of the URA, all small businesses are to be reimbursed for eligible costs incurred by a business that is required to relocate due to impacts from a project. Business relocations can be more complex than residential relocations and require the agent to be accustomed to creative thinking in order to help the business relocate as smoothly as possible. The number one task for the assigned agent is to provide advisory services. The agent also acts as a conduit for information and the reimbursement of eligible costs incurred by the business during the move. The following are some of the steps involved in relocating a business impacted by a Department project.

### 1) Appraisal Notification

On acquisitions of sites where business occupants may be displaced, the Chief Appraiser gives e-mail notification through the ROW management system that the preliminary appraisal is completed and now entering the review stage. It contains the project name, project number, parcel number, owner's name and property description.

The Chief Agent contacts the appraisal office for the purpose of gathering pertinent information that does not appear on the “Appraisal with Relocation to Review” notification.

#### Required Notices

##### 90-Day Notice

The Department issues a 90 day notice to all persons displaced by a project.

A notice is issued to all person(s) displaced, as defined in the URA. It is titled “90 Day Notice” and is issued to both owners and tenants who are being displaced.

This notice fulfills the federal requirement of notifying occupants that they are eligible for applicable relocation assistance.

This notice also fulfills the federal requirement of informing displacee(s), in writing, that they will not be required to move from the displacement site without a minimum of 90 days advance notice in accordance with 49 CFR Part 24.203(c))

The 90 day notice also informs the displacee that after the property is conveyed to the State, a subsequent notice will be issued defining their actual vacating date. If the property has already been conveyed to the State, before the 90 day notice is issued, the 90 day notice is to be edited to inform the displacee that the 90 day date, included in the notice, will also serve as their actual vacating date.

The 90 day notice also includes notification to the displacee that they may be eligible to receive reimbursement of certain costs incurred in moving to a replacement site and, in the case of a displaced owner, reimbursement for certain closing costs that may be incurred when purchasing a replacement dwelling. The 90 day notice also instructs the displacee what is expected of them when they vacate the displacement site i.e. verifying the move out requirements with the

assigned agent such as how to handle the utilities and condition that the displacement property should be left in.

The 90 day notice also informs the displacee that they will continue to receive advisory services throughout the process.

In an owner occupied situation, the 90 day notice should be issued at the time the offer of just compensation is presented to the owner(s). If that is not possible, it should be mailed certified in close coordination to the offer date.

In a tenant situation, the 90 day notice is issued as soon as the agent has presented the offer described in vii above and is either issued in-hand to the displacee, or mailed to them via certified mailing.

#### Actual Vacating Notice

When the property occupied by persons to be displaced, is conveyed to the State, the Department issues an Actual Vacating Notice, informing the displacee(s) occupying the site of the actual date by which the Department needs them to vacate the premises.

The vacating date used in the actual vacating notice shall be a date no less than 30 days from the anticipated receipt of the notice by the displacee.

The actual vacating notice also notifies the displacee that they will continue to receive relocation advisory services and relocation assistance from the Department

The actual vacating notice also reiterates their responsibilities when they move from the displacement site, as spelled out in the 90 day notice.

Issuing an actual vacating notice may be waived if the displacee has vacated the displacement location, prior to the Agency establishing an actual vacating date.

#### Initiating the Business Relocation Process

After receiving the notification, the Agent schedules a meeting, with the person(s) who are occupying each unit at the displacement site and who will ultimately become the displacee(s) from the parcel. The purpose of this meeting is to continue a connection made earlier with the displacee(s) during the appraisal site visit and also to establish the beginning of the relocation file at the office. Occupants can be either Owners, or Tenants. The relocation file is initiated by gathering some data from the occupant(s) and logging the data onto a form called the "Business Validation and Displacee Data" form

(see Appendix page 230). During the meeting, the agent will also discuss the relocation process with the displacee(s). Note: in the case of a tenant, it is the tenant's right to be informed of what is happening with the site they occupy, as a result of impacts from the project and how the relocation process will work in relation to them. If a landlord is resistant to allowing the agent access to the tenant(s) on a particular site, the agent should consult with the Agent Supervisor and/or Chief Agent, for guidance on how to proceed. Options can include meeting with the tenant at an alternate location or waiting until the Agency eventually takes possession of the site to start the tenant relocation process. Project schedules will normally dictate the course of action that the Department will take to complete the relocation process.

The meeting with the business to be displaced should be conducted at the business site. Most questions that may come up during this meeting can be quickly addressed while on site. At this point an Agent has already accompanied the Appraiser, the business owner and/or the property owner on the site inspection prior to the start of the appraisal process and compiled a list of personal property and/or tenant-owned improvements. Some of the questions and answers discussed at this meeting may be redundant to the site inspection meeting but, as a rule it is helpful for the property owner to hear the same information multiple times. The agent should strive to get as much information about the business as possible. Discussion about what the business does, who the clientele is, what special items will possibly be required at the replacement site, personal property that may need specialized processes in order to move it/them, etc. The agent should walk around the location with the displacee and ask questions about items on the site, especially if they are unsure of how the relocation of a particular item may be handled. Good notes by the agent are essential from this discussion along with the compilation of an inventory of the personal property. The inventory report should highlight any anticipated specialty work that may be required to relocate a particular item. Note: reimbursement eligible costs for the moving of personal property can be found in the Appendix.

After the meeting, the agent should remain in contact with the displacee and continue to work with them to find a replacement site. The agent has access to the local Multiple Listing Service and

should periodically utilize that resource for possible replacement sites, passing that information along to the displaced business owner.

At this point, helping the displacee to “line up” several movers and/or specialists in the area is a prudent course of action. This is also a good time to scope out the move process in draft form.

When the displacee settles on a replacement site, preparations can begin to finalize the scope of work and solicit any estimates/bids needed from the movers and/or specialists for the moving of the personal property. Eligible moving related expenses are as follows:

Transportation of the displacee and personal property

Packing, crating, unpacking and uncrating of the personal property

Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property. For businesses and farms this includes machinery, equipment, substitute personal property, and connections to utilities available within the building.

This also includes modifications to the personal property including:

those mandated by Federal, State and local code or ordinance;

necessary to adapt the item to the replacement structure, the replacement site, or the utilities at the replacement site ;

And modifications necessary to adapt the utilities at the replacement site to the personal property.

In accordance with 24.301(d) (1) the displacee may choose to submit a claim for the reimbursement of eligible costs based upon the lower of two bids prepared by commercial movers/specialists

In accordance with 24.301(d) (2), the displacee may elect to submit a self-move payment claim for the reimbursement of eligible costs.

based upon the lower of two bids or estimates prepared by commercial movers/specialists or

Supported by receipted bills for labor and equipment.

Hourly labor rates shall not exceed the rates paid by a commercial mover to employees performing the same activity

At the Agency’s discretion, payment for a low-cost or uncomplicated move may be based upon a single estimate or bid

The displacee may elect to claim a reimbursement using one or a combination of any of the above described methods.

The following non-residential moving related expenses are also reimbursable if the Agency determines that they are actual, reasonable and necessary.

Connections to available nearby utilities from the ROW to improvements at the replacement site.

Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displacee's business operation including, but not limited to, soil testing, feasibility, and marketing studies, excluding any fees or commissions directly related to the purchase or lease of such site.

Impact fees or one-time assessments for anticipated heavy utility usage, as determined to be necessary by the Agency.

Additionally, when the displacee settles on a replacement site, a subsequent scope of work should be developed that includes any anticipated treatments necessary to help reestablish the business at the replacement site. The costs of these treatments, commonly termed reestablishment expenses, are eligible for reimbursement in accordance with 24.304. Reimbursement of eligible reestablishment related expenses is limited by NH RSA 124: A: 3 (d),



to a maximum of one hundred thousand (\$100,000) dollars. Eligible reestablishment expenses include but are not limited to:

Repairs or improvements to the replacement real property as required by Federal, State or local code.

Modifications to the replacement property to accommodate the business or make the replacement structures suitable for conducting business

Construction and installation costs of exterior signing to advertise the business

Redecoration or replacement of soiled or worn surfaces at the replacements site such as paint, paneling or carpeting

Advertisement of the replacement location

Estimated increased costs of operation during the first two years at the replacement site for items such as:

Lease or rental charges;

Personal or real property taxes;

Insurance premiums;

Utility charges, excluding impact fees.

Other items that the Agency considers to be essential to the reestablishment of the business

24.304(b) identifies a non-exclusive list of expenses that are not considered to be reasonable, necessary or otherwise eligible for reestablishment reimbursement. They are:

Purchase of capital assets such as furniture, machinery, etc.

Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation

Interest on money borrowed to make the move or purchase the replacement property

Payments to a part-time business in the home which does not contribute materially (defined at 24.2(a) (7)) to the household income.

There is also a mechanism for a displaced non-residential person to be reimbursed for anticipated moving and reestablishment costs by requesting a fixed payment, in lieu of the other costs is

provided in 24.301, 24.303 and 24.304. This includes businesses, Farms and Non-Profit Organizations and the payment is allowed under 24.305 by meeting the following criteria:

The displaced business is eligible for the payment upon determination that:

The business owns or rents personal property which must be moved and for which an expense to move the item would be incurred and, the business relocates from the displacement site;

The business cannot be relocated without a substantial loss of its existing clientele. A business is assumed to meet this test unless the Department has good reason to believe otherwise;

The business is not part of a commercial enterprise consisting of more than three other entities which are not being acquired by the Department, and which are engaged in the same or similar business under the same ownership.

The business is not operated at the displacement site or dwelling solely for the purpose of renting such site or dwelling to others;

The business contributed materially to the income of the displaced person during the two taxable years prior to displacement.

Such payment shall equal the average annual net earnings of the business, calculated to be one-half of the net earnings before Federal, State and Local taxes during the two taxable years prior to the taxable year in which it is displaced, not to be less than \$1,000.00, or more than \$40,000.00

If the displaced person elects a fixed payment, they must provide the Agent proof of net earnings through income tax returns, certified financial statements or other reasonable evidence which the Agency determines to be satisfactory.

## **CHAPTER 7 - CONDEMNATION, LEGAL SETTLEMENTS**

### **7.01 PURPOSE**

The purpose of this chapter is to outline the process to be followed to be in compliance with Federal and State laws and the applicable regulations relating to condemnation and legal settlements for property needed for Federal or State highway and bridge construction projects.

### **7.02 AUTHORITY**

The condemnation procedure used by the Department is generally outlined in New Hampshire Revised Statutes Annotated (RSA) Chapter 498-A: Eminent Domain Procedure Act. Enacted in 1971, the law was intended "...to provide a complete and exclusive procedure to govern all condemnations of property for public uses including the review of necessity, public uses, and net-public benefit, and the assessment of damages therefore." (RSA 498-A: 1).

The law requires that the Department, prior to taking property by Eminent Domain, "...have an impartial, qualified Appraiser make at least one appraisal of all property proposed to be acquired." (RSA 498-A: 4 II (a)). The Department must also "... make reasonable efforts to negotiate with the condemnees or their personal representatives for the purchase of the property..." (RSA 498-A: 4 II (c)). The Department "...shall provide a copy of the appraisal, and if requested, any official appraisal review notes upon which negotiations are based to the condemnees at the time of negotiation or at least 45 days prior to making the notice of offer, whichever comes first." (RSA 498-A: 4 II (f)). The law further requires that no property can be taken, unless, pursuant to RSA 230:14, the Commission of Three Persons issues the condemnees a written Notice of Offer to Purchase, setting forth the purpose for which the property will be taken, a description of the property to be taken, the amount of compensation offered with the effective date of the appraisal and the fact that Eminent Domain proceedings will be instituted if the offer is not accepted within 30 days (RSA 498-A:4, III (b)). The issuance of the Notice of Offer to purchase and further condemnation proceedings can and should be delegated by the Commission to the Department.

### **7.03 ORGANIZATION**

All legal services for the Department and Commission are furnished by the AG's Office, Transportation and Construction Bureau. They provide all legal services relating to Eminent Domain actions as well as contract litigation, and defense of all claims or suits against the Department.

### **7.04 COMPLIANCE WITH FEDERAL AID REQUIREMENTS**

It is the intent that there will be compliance with all Federal aid requirements applicable to condemnation proceedings and legal settlements. The Code of Federal Regulations (CFR) and Federal-aid Highway Program Policy & Guidance Center (<https://www.fhwa.dot.gov/pgc/>) are made a part of this manual by this reference.

### **7.05 PROCESS**

#### **A. DECISION TO CONDEMN**

When the decision to condemn is made, the Notice of Offer to Purchase is prepared and delivered by certified mail to all property owners, interested parties and appropriate town/city tax collector(s). If the offer made by the Department is not accepted within 30 days after the formal presentation (Chapter 5) the Eminent Domain process is initiated pursuant to RSA 498-A.

The Eminent Domain process consists of the following steps: Draft condemnation documents are prepared by a ROW Agent and submitted to the Administrative section. A copy of the draft Notice of Offer to Purchase (NOO) is forwarded to Land Titles so that the condemnation plan can be prepared. Once finalized, the draft documents are reviewed by the Administrator and the package can be forwarded to the AG's Office for their review. Once the AG's Office has reviewed the condemnation packet; the draft NOO, the declaration of taking (declaration) and Notice of Condemnation (NOC) are returned to the Administrative section. A tracking system has been established in the ROWMS for entering all actions described above. These are entered by the Administrative section and trigger subsequent actions.

At that time, the ROW Agent is notified to request the Deposit of Damages (award check), made payable to the NHBTLA and/or the property owner. The Administrative section tracks the Deposit of Damages check request to verify it is being processed by the Department's Bureau of Finance.

The ROW Agent will forward a copy of the abstract face sheet with the expiration date of the NOO to Land Titles so that an update of the title abstract can be scheduled.

Once this final package is reviewed and the final memo is signed by the Administrator or Assistant Administrator, it is forwarded to the AG's Office, at least three days prior to the filing date. On the day of filing, a ROW Abstractor will update the abstract at the Registry of Deeds and if there are no changes, the AG's Office will proceed with the filing at the NHBTLA. At this time, the check for Just Compensation is deposited with the NHBTLA. If changes are necessary, the Bureau will consult with the AG's Office for the best course of action.

## **B. TAKING OF TITLE**

The Department files with the NHBTLA a declaration describing the property to be acquired (RSA 498-A: 5). the clerk of the NHBTLA issues orders of notice, with the declaration. These are served on the landowners either by a County Sheriff or by certified mail. The Department, after the filing of the declaration, is entitled to possession or right of entry upon the property only after depositing a check equal to its estimate of just compensation with the NHBTLA (RSA 498-A:11).

The declaration cannot be filed until thirty (30), not to exceed ninety (90) calendar days after the NOO is postmarked. The listing of owners on the declaration must include any mortgagees, easement holders and lessees of record but not any liens or attachments on the property. A copy of the Assistant AG's letter of transmittal is forwarded to the Bureau. The property described in the NOO and declaration becomes the property of the State of New Hampshire as soon as the declaration is filed.

The final NOC is filed with the Register of Deeds in the county(s) where the property is located. It must cover all those items listed in RSA 498-A: 4. a file copy is retained in the Bureau and a copy sent to the AG's Office. After the NOC has been recorded, the Bureau sends a letter to the AG's Office stating the date, book and page of the recorded NOC.

### **C. HEARING**

After the filing of the declaration, the NHBTLA fixes a time and place for a hearing on the issue of the amount of just compensation (RSA 498-A: 24). Following a hearing, the NHBTLA files a report of a case, including its award of damages (RSA 498-A: 26). Either the Department or the condemnees may appeal de novo in Superior Court. Either side may also request a jury trial. The appeal must be made within 20 days after the filing of the report of the NHBTLA (RSA 498-A: 27). If the Jury's award is not acceptable to either party, then the case may be appealed to the New Hampshire Supreme Court.

### **D. INTEREST**

Interest at the rate of the discount rate of interest on 52-week United States Treasury bills plus pertinent percentage points, rounded to the nearest tenth of a percentage point per annum is paid on the difference between the NHBTLA award or a Superior Court verdict and the amount deposited with the NHBTLA at the time of the filing of the Declaration. The final amount will be furnished via the AG's Office.

### **E. ATTORNEY GENERAL INVOLVEMENT**

The legal staff in the AG's Office represents the Department in all phases of the Eminent Domain process following the filing of the declaration. After Condemnation has been filed, the Assistant AGs have the authority to negotiate out-of-court settlements subject to the approval of the ROW Administrator and the G&C. The AG's Office settle cases in the best interest of the State and within relatively narrow guidelines. The criteria considered in settling cases include the following:

- legal or empirical deficiencies in the Department's appraisal or in the condemnees appraisal;
- interest and costs to which the condemnees may be entitled;
- whether a case involves complex valuation problems, and
- Recent court awards in the area of the taking.

### **F. NEGOTIATED SETTLEMENT**

In every instance where a compromise settlement is negotiated by the attorney handling the case and the Administrator concurs in a settlement, or the amount of settlement is in excess of the

approved Appraiser's estimate of damage, two letters are written. A letter is written to the Administrator stating in detail a description of the parcel involved, particular problems which may have arisen during negotiations which might affect the State's position on the issue of damages, the basis for the State's appraised figure and for the condemnees demand, and the reasons for settlement. This is stored in the AG Confidential file in the ROWMS. Another letter is written to the Commissioner setting forth the general terms of the settlement. A copy of the AG's letter to the Commissioner, along with a contemplated award list is submitted to the G&C.

#### **G. CHECK**

A check is requested for the balance due the condemnees(s). The Department submits a request of the final amount to G&C by way of the contemplated award list (Chapter 1). Upon G&C approval of each settlement, a check is issued and forwarded to the AG's Office. It is then sent to the condemnees(s), or their authorized representative, together with docket markings to file with the NHBTLA so that the case may be closed.

## **CHAPTER 8 - PROPERTY MANAGEMENT**

### **8.01 ORGANIZATION AND FUNCTION**

#### **A. ORGANIZATION**

The Property Management section consists of a Chief of Property Management, and 3 ROW Agents (2 Property Managers and one ROW Agent for surplus properties)

#### **B. FUNCTION**

The Property Management section functions include:

- Coordinates the disposal of, or ROW use agreements, as defined in 23 CFR 710.105, for the Department's real property interests, to ensure compliance with State and Federal laws and regulations. This may also include licensing. The applicable Federal regulation for Property Management is 23 CFR 710 Subpart D. The Administrator is authorized to sign Licensing agreements.
- Prepares correspondence, submissions to State and Legislative committees and the G&C.
- Compiles and maintains an inventory of properties managed by the Bureau in both electronic and paper format to comply with State, Federal and Departmental requirements and needs.
- Supervises the operation and management of Property Management Company (ies) hired for the management of Department owned properties acquired for transportation construction projects.
- Provide information for building demolition contracts as required prior to the advertising of highway construction projects.
- Administers the Bureau's Hazardous and Regulated Material Program to ensure that all buildings purchased and subject to demolition are asbestos free, hazardous material free and comply within parameters for lead paint.



## **8.02 MANAGMENT OF SURPLUS BUILDINGS**

The Department purchases improved residential and commercial properties needed for construction of transportation projects as part of the State's Transportation Improvement Program. In some cases the buildings do not need to be removed immediately for construction and may remain in place for a period of time. Whenever possible the Department will lease properties that are in good condition and not immediately needed for a transportation project. Leasing these properties allows the property to remain on the municipal tax rolls. The Department also purchases portions of properties, which may be made available as short-term land leases to abutters without interfering with the State's long-term needs.

### **A. TRANSITION OF PROPERTY FROM ACQUISITION TO PROPERTY MANAGEMENT SECTION**

The Property Management section receives periodic notices of potential acquisitions with improvements as follows:

- Appraisal with Relocation to Review
- Offer Made with Building Taken
- Title Taken with Building Taken
- ROW Displacee Vacated
- ROW Building Turnover Report

Prior to transfer of property ownership and final payment to displacee, the property shall be inspected by Department representatives from the Agent and Property Management sections to ensure compliance on condition/cleanliness of property.

Once transitioned to the Property Management section, the property information is entered into the Department's Property Management Database where it will be categorized as a rental unit or vacant property. The state is comprised of several property management regions. See Appendix page 250 for maps of current regions. The state is split into regions to maximize the efficiency of the management of the properties. The management company overseeing the appropriate region where the property is located is then notified and sent an information packet including; appraisal information for appropriate liability insurance coverage, photos of the property, a location map, and a work request for lock changes and winterization if necessary.

The properties are leased on a short term basis through the appropriate property management company overseeing the region where the property is located. Award of contracts to manage these regions are awarded every four years through the G&C authorization process.

To ensure fair market rent is established for each property, the amount is determined by the management company(s) using various methods and resources, including market analysis and industry rental comparison software. Fair market rent should include real estate taxes, liability insurance, and all reasonable overhead expenses. If necessary, an appraisal may be required to determine fair market rent. The analysis used to determine fair market rent will be documented in the project parcel files in the ROWMS.

Federal Aid eligible management expenses do not include buying personal property such as washing machines, clothes dryers or dishwashers. Federal Aid property management expenses are only eligible until the project is closed per 23 CFR 710.

## **B. PROPERTY MANAGEMENT CONTRACTOR SCOPE OF WORK**

The assigned property management company manages the assigned Department-owned properties in such a manner as will protect the Department's investment. The company also acts as the Department's agent to enforce the terms of Department-approved leases on all assigned rental property, in consultation with the AG's office and in accordance with New Hampshire Statutes that govern tenant and landlord affairs. Approval of work orders will be granted by the Property Management section. Evictions will be managed by the Department with assistance from the AG's office. The Administrator shall authorize all leases and evictions.

All contracts for property management using Title 23 funds must comply with the requirements in 2 CFR 200 and 23 CFR 710.201(f).

## **C. BUILDING DEMOLITION**

### **Cultural Resources**

Projects that receive federal funding, licensing or permitting must comply with Section 106 of the National Historic Preservation Act. This requires the Department to consider the effects of demolition impacts on historic resources.

For state funded projects, NH RSA 227-C: 9 Directive for Cooperation in the Protection of Historic Resources, stipulates that “All State agencies... shall fully cooperate with the [NH Division of Historical Resources] in the location, identification, evaluation and management of historic resources...”

All properties shall be reviewed by the Department’s Bureau of Environment, Cultural Resources Program staff prior to demolition. As properties age Bureau of Environment staff may request additional documentation by an architectural historian or archeologist, qualified under 36 CFR 61, for historic significance prior to any demolition to comply with Federal and State regulations.

#### **D. HAZARDOUS MATERIAL**

Prior to any building demolition, an Asbestos Identification & Hazardous Materials Survey is contracted to a licensed Asbestos Identification & Hazardous Materials company and complies with Federal and State regulations. Should asbestos containing materials and/or hazardous materials be identified, the information is provided in a detailed report to the ROW Property Manager. The information in the report is included in the Department’s demolition project proposal, identified under Section 202.20X (Building Demolition, Informational Data Document) (See Sample) and 202.30X (Building Asbestos Abatement) (See Sample) respectively of the current edition of the Department’s Standard Specifications for Road and Bridge Construction manual. The information contained in Item 202.20X (Informational Data Document) identifies materials, locations, and estimated quantities of common chemicals and potentially hazardous material abandoned on the property as well as lead-based paint.

The objective of the survey is to ensure that chemicals and potentially hazardous materials that remain on the property are properly managed to avoid any threat to public safety or the environment and to reduce the overall waste stream.

### **8.03 SURPLUS LANDS (EXCESS PROPERTY UNDER 23 CFR 710 FINAL RULE EFFECTIVE SEPTEMBER 2016)**

#### **A. INVENTORY AND TRACKING:**

The tracking and inventory of the potential surplus parcels managed by the Property Management section is through a database called POSSUM (Potential State Surplus Management). POSSUM is a

HAZMAT database interface used to identify and store information for the inventory of parcels of land purchased in connection with transportation construction projects that are not needed for immediate construction and are managed by the Bureau. These parcels would not include parcels that are managed through other Bureaus in the Department that track Mitigation parcels, Maintenance Offices , Sheds, Pits, Park and Rides and Rest Areas, including the Bureau of Environment, Rail and Transit and HW Maintenance.

Users of POSSUM include Bureau personnel and other Department personnel researching information on properties managed by the Bureau of Right-of-Way.

## **B. PROCESS TO ACQUIRE / LEASE DEPARTMENT OF TRANSPORTATION PROPERTY**

The sale / lease of properties owned by the Department are authorized under RSA 228:31 Acquisition and Disposal of Land or Property and RSA 4:39-C Disposal of Highway or Turnpike Funded Real Estate. Copies of these RSA's are located in the Appendix.

The process to lease or purchase surplus property is lengthy. A request is made to the Department through the Administrator. Items to include with the request, and the steps the request will go through, are located on "Request for Surplus Land Disposal, Department of Transportation, Bureau of Right-of-Way" located in the Appendix. Also located in the Appendix are outlines for leasing and for disposal of State owned property managed by the Bureau.

Property management for properties acquired with Federal funds must comply with 23 CFR 710. Leases must comply with the 23 CFR 710 and be written to address safety and integrity, and have reversionary clauses.

## **C. DEPARTMENTAL REVIEW**

When the Department receives a request from a party interested in acquiring surplus property, and the Bureau determines and documents that this is a reasonable request, an initial administrative fee is required. Upon receipt of this fee, the Property Management Section prepares a Departmental review to solicit input from various Bureaus on whether the request is surplus to their Bureau's needs.

Requests may also include the sale of a permanent easement on a State owned parcel, leasing of a State owned parcel, or the sale of an access point through the Controlled Access Right Of Way

(CAROW) or Limited Access Right Of Way (LAROW). Any request for access breaks or change in use of Interstate facilities requires coordination with FHWA for approval.

Department Reviews are normally sent to the Department's Bureau of Highway Design, Bureau of Rail and Transit, Bureau of Environment (the Bureau of Environment will forward to various environmental resource agencies when required), Bureau of Highway Maintenance and the Bureau of Turnpikes (when the adjacent roadway is Turnpike maintained). When reviewing these requests, the Bureaus must address the following criteria in formalizing their responses:

- Determine whether the real property interest will be needed currently or in the foreseeable future,
- Determine the environmental impacts and provide environmental clearance,
- Determine whether the disposal and/or proposed development will affect the safety of the highway facility,
- Determine if the disposal will interfere with the safe, flow of traffic,
- Determine if the disposal will affect the integrity of the infrastructure.

Once these reviews are completed the Bureau will summarize the findings and forward a package to the Front Office for review.

#### **D. FRONT OFFICE REVIEW**

When the Departmental Review is complete, the comments from Highway Design, Environment, Rail and Transit, Highway Maintenance, and Turnpikes (only if the area abuts a roadway under their jurisdiction) are summarized and a Final Front Office Review is prepared.

This review is circulated thru the Front Office through the Administrator using a Final Front Office Review form. This package is then entered into the Management Tracking System (MTS) by the Administrative section. Comments from Department Directors and Commissioners are compiled and added to the MTS concerning their recommendations on the disposition of the parcel.

After the Front Office Review is complete and the potential sale is deemed appropriate, FHWA approval must be received for the sale of certain parcels and access control as stipulated by the NHDOT/FHWA Stewardship and Compliance Agreement. Any proposed Interstate use or disposal

action requires FHWA approval. A complete package must be submitted to FHWA to substantiate the request.

Note: Disposal of Real Property acquired with Federal- aid funds must be in the overall public interest based on social, environmental or economic benefit to the public and in conformance with 23 CFR Subpart D including 23 CFR 710.403 and 23 CFR 710.409. Property disposed at less than market value shall be submitted to the Federal Highway Administration for review and approval in accordance with the NHDOT/FHWA Stewardship and Compliance Agreement.

#### **E. APPRAISAL PROCESS**

After the parcel is approved by the Front Office for sale, the Property Management section will submit a request to the Bureau's Appraisal section requesting an appraisal be prepared to assist in determining fair market value.

Remnant parcels due to size, shape or access that do not have an independent value will be appraised as to their contributory value to abutting parcels as stipulated by the Long Range Capital Planning and Utilization Committee (LRCPUC). Surplus parcels with a highest and best use as an independent parcel will be appraised as to their fair market value. Other types of appraisal requests may include easement values, lease values or an access point value.

Parcels should be appraised at the highest and best use be it across the fence or contributory value; there may be parcels with independent value that greatly increase the abutting parcels' values simply by providing improved access. This should be considered fully in the scope of work; the guiding principle is to sell at fair market value and use the funds for transportation purposes.

#### **F. LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE (LONG RANGE)**

Long Range is a Legislative Committee, established by RSA 17-M: 1. This Committee is composed of four (4) State Representatives, four (4) State Senators, the Commissioner of the Department of Transportation or designee and Commissioner of the Department of Administrative Services or designee, and the Governor's designee. This Committee determines the proposed sale value and procedure for the sale of the property. A Fair Market Value (FMV) appraisal is the floor for Federally encumbered real property. The Department cannot dispose for less than FMV without FHWA approval.

The Department prepares a submission to Long Range which will recommend the type of sale and a value for the sale. The recommendation would be the value determined by the Department. Typically a \$1,100.00 Administrative Fee is required as defined under RSA 4:40-IIIa.

#### **G. GOVERNOR AND EXECUTIVE COUNCIL (G&C)**

This is the final step in the RSA 4:39-c process for the approval of sale of State owned land. The G&C consists of the Governor and Executive Councilors who typically meet twice a month to act on statewide items, including the sale of State property.

Once a potential buyer is identified meeting the conditions established by Long Range, a G&C submission is prepared by the Property Management section. The submission is then placed through the Management Tracking System (MTS) for review and approval by the Bureau of Finance and Contracts and Front Office personnel before being signed by the Commissioner.

#### **H. CLOSING**

The Property Management Section prepares a draft Quitclaim deed. The draft of the Quitclaim Deed is sent to the prospective buyer for review and comment.

Once deed language is agreed upon by both parties, final deeds are prepared and forwarded through the Administrator to the Front Office with a routing slip for the Commissioner's signature. Copies of the approved G&C submission and approval letter are included for informational purposes only.

Once the deed is signed by the Commissioner, a closing can be scheduled with the buyer. The sale is finalized either at a closing or by mail.

Revenue received from property management that is eligible for Title 23 activities must be recorded in a separate account as determined by the Bureau of Budget & Finance.

#### **I. TRANSFER OF PROPERTY AT LESS THAN FAIR MARKET VALUE**

When any proposed use or transfer of property is proposed to another public Agency at less than fair market value for continued public use, clearly justified and approved by FHWA, the transfer deed must contain a reversionary clause back to the Department if the receiving public Agency fails

to maintain the property for continued public use. Non-highway use must be documented in a ROW use agreement per 23 CFR 710 Subpart D.

## **J. RELINQUISHMENT OF HIGHWAY FACILITIES**

The relinquishment of a highway facility is the conveyance of a portion of a highway right-of-way or facility by a State highway agency to another Government agency for continued highway use. Relinquishment regulations are found at 23 CFR 620.

The following facilities may be relinquished in accordance with paragraph 23 CFR 620.203(f).

- Sections of a State highway which have been superseded by construction on new location and removed from the Federal-Aid system.
- Sections of reconstructed local facilities that is located outside the control of access lines such as turnaround of severed Local Street, adjacent to FHWA right of ways and local road crossing over or under said roadway.
- Frontage road or portions thereof that is generally parallel to and outside the control of access lines to access private property rather than to serve as extensions of ramps of connection of crossroads.

The following facilities may be relinquished only with the approval of FHWA.

- Frontage roads or portions thereof that is generally parallel to and outside the control of access lines to access ramps or connection of crossroads.

If the State finds cause for relinquishment of a highway facility, the Bureau of Planning and Community Assistance will send to FHWA a map showing the area(s) in question. The area in question will not include any portion of the right of way within the CAROW without approval from FHWA.

Relinquishments must be justified by the State's written finding concurred by the FHWA, that:

- The subject land will not be needed for Federal-Aid highway purposes in the foreseeable future.



- That the right-of-way being retained is adequate under present day standards for the facility involved.
- That the release will not adversely affect the Federal Highway facility.
- That the lands being relinquished is not suitable to restore, preserve or improve the scenic beauty adjacent to the highway.
- If relinquish is to a Federal, State or local government agency for highway purposes, there need not be a charge to the said agency. If for any reason there is a charge, the Department may use FHWA share for projects eligible under Title 23.

The transfer deed should contain reversionary language stating that if the property is no longer needed or used by the entity that the ownership transfer back to the Department (any reversion should be by default back to NHDOT).

### **Process for Relinquishment**

Departmental Review

Front Office Review

FHWA Desk and Field Review

### **K. ABANDONMENT OF A PROJECT**

If a project is abandoned after real property interests have been acquired using Federal aid funds, or more than 20 years have passed since a project was first authorized and no highway was built on real property acquired for a project, coordination with FHWA is required to determine the appropriate course of action. See 23 CFR 630.112

## Appendix

## ***PROCEDURES FOR ACQUISITION OF REAL PROPERTY RIGHTS FROM GOVERNMENTAL AGENCIES BY FUNCTIONAL REPLACEMENT***

The purpose of this section is to provide an alternative procedure for the New Hampshire Department of Transportation (NHDOT) to use when acquiring real property rights from governmental agencies.

Functional Replacement is designed to provide relief to public agencies when a highway project requires the acquisition of an essential public facility. This policy recognizes that the proper measure of compensation for essential facilities may be their replacement cost rather than the depreciated current market value. Authority for functional replacement is found in NH RSA 228:31 and Title 23 CFR 710.509.

### **Functional Replacement of Real Property in Public Ownership**

Functional replacement is the replacement of real property, including structures, and land, if needed of equivalent utility for the replacement site, acquired as a result of a highway project, in lieu of paying market value (MV) for the real property acquired.

The Functional Replacement Program is the responsibility of the Bureau of Right of Way.

When functional replacement is considered, the following conditions must be met:

1) The property to be replaced must be publicly owned and in public use;

The use of functional replacement must be in the public interest;

On all federal projects, FHWA approval for functional replacement in accordance with FHWA/NHDOT Stewardship Oversight Agreement;

The proposed replacement and construction sites must best meet the needs with minimal site plan waivers or extra expenses to conform with existing local and State codes, law, and zoning regulations;

The replacement facility will be in public ownership and will continue the public use function of the acquired facility;

The NHDOT has informed the owning agency of the property of its right to an estimate of just compensation based on an appraisal of market value and the option to choose either just compensation or functional replacement; and

The real property is not owned by a railroad or utility company.

During the early stages of project development, when functional replacement is being considered, the following must occur:

1) Representatives from the Right-of-Way Bureau must meet with representatives of the owning agency to discuss the effect of a possible acquisition and potential application of functional replacement; and

The results of these discussions and any decisions resulting from them shall be part of the conceptual study and included in the Environmental Document.

**Initial Request:**

On Federal-aid projects when the NHDOT determines that functional replacement is in the public interest, the NHDOT will submit a specific request for FHWA concurrence in the public interest finding. This request should include:

- 1) An estimate including acquisition and relocation costs of the publicly owned and used parcel relative to the contemplated replacement as well as an estimated cost of the Functional Replacement;

Agreements reached at meetings between the NHDOT and the owning agency; and

An explanation of the basis for the request.

The request shall include a statement that any replacement property will be acquired in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended and applicable FHWA directives.

Upon FHWA concurrence for Federal-aid projects the property will be appraised and an amount of just compensation will be established and presented to the owning agency. The owning agency has the option of accepting the amount of compensation established by the appraisal, or accepting functional replacement. The offer to the owning agency must be documented, as well as, their decision to accept the MV or Functional Replacement. The functional replacement for the PDA is being accomplished under the original approved process dated February 17, 2016.

#### **Replacement Site Selection and Construction:**

Upon FHWA concurrence that functional replacement is in the public interest and the owning agency accepts functional replacement, an agreement is drafted setting forth the rights, obligations, and duties of each party with regard to the facility being acquired, the acquisition of the replacement site, and the construction of the replacement facility. The proposed agreement should also clearly define what costs are to be borne by the NHDOT and what costs will be the responsibility of the owning agency. The proposed agreement will be approved by the FHWA prior to execution with the owning agency. Any subsequent change orders will be reviewed and approved by the FHWA and NHDOT before submittal for payment.

Upon concurrence by the FHWA and execution of the agreement, the NHDOT requests authorization from FHWA to proceed with the acquisition of the replacement site (if applicable) and to proceed with the physical construction of minor structures. In the case of major improvements, authorization to proceed with development of detailed plans, specifications, and estimates will be requested.

The NHDOT will acquire the suitable replacement site. If the owning agency acquires the site it must receive prior NHDOT approval and be in accordance with Title 23 and the URA and they will be reimbursed for actual and reasonable costs associated with the acquisition.

If the owning agency wishes to contract with a consultant for planning or architectural services, it must receive prior approval from the NHDOT and FHWA, and follow all Title 23 Federal Aid Requirements.

The completed plans, specifications, and estimates are submitted to the FHWA for review and approval in accordance with established procedures. This review will be primarily to ensure betterments are not included in the scope of work as Federal-aid costs. Betterments are considered increases in capacity or improvements above what is required by current State and local codes and regulations or reasonable prevailing standards. Where major improvements are involved, advertising for bids and letting of the contract to construct the replacement facility may follow the general procedures utilized by the owning agency, if acceptable to the NHDOT and the FHWA. The specifications, where applicable, should include the provisions for NHDOT inspection during the construction of the replacement facility.

The NHDOT may choose to assign a Project Engineer to represent the NHDOT during the construction period. Prior to construction, the NHDOT may require the owning agency to hire a Clerk of the Works, the cost of which is to be reimbursed by the NHDOT as part of the total cost of the project.

On Federal-aid projects, a request for final payment will be prepared for submittal to the FHWA after the replacement facility has been completed and accepted by the owning agency. This request will include:

- 1) A signed statement by an appropriate official of both the owning agency and the NHDOT, certifying that the cost of the replacement facility has actually been incurred, in accordance with the provisions of the executed document, and;
- 2) A statement certifying that a final inspection of the facility was made by the NHDOT and the owning agency, and that the NHDOT is released from any further responsibility.

### **NHDOT Responsibilities**

Upon authorization of FHWA NHDOT will authorize the owning agency to begin work.

NHDOT will perform review and oversight on the replacement project to insure compliance with the agreement, including the following elements:

- 1) Site selection and purchase,  
Replacement facility plans and specifications,  
Contract documents,  
Progress inspections during construction, and  
Final inspection at completion.

During construction of the replacement facility NHDOT is responsible for periodic on-site inspections to note any changes from the approved plans and to ensure that betterments that were not approved as items in the Functional Replacement agreement are not included at FHWA or NHDOT cost.

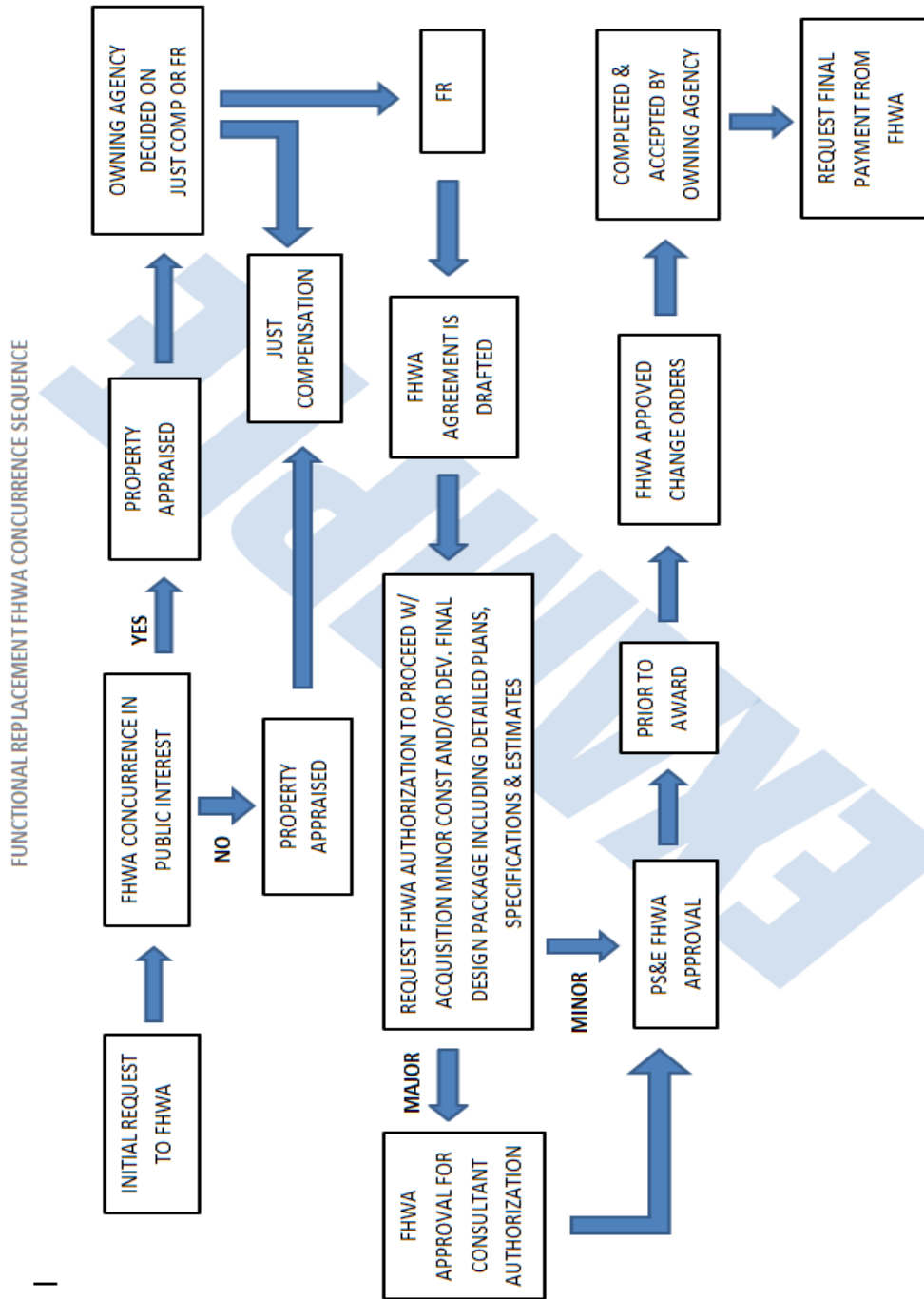
If, during construction, change orders are needed NHDOT shall be responsible for review of the change(s) to ensure that betterments are not included at project cost. Additionally, on projects with federal participation in the Functional Replacement, all change orders must be transmitted to the Project Manager, for submission to FHWA for review and approval.

NHDOT will formally approve the completion of the project prior to making the final payment to the owning agency, NHDOT shall obtain a statement signed by an appropriate official of the owning agency certifying that the cost of the replacement facility has actually been incurred in accordance with the provisions of the executed agreement. The statement must certify that a final inspection of the facility was made by a representative of NHDOT and a representative of the owning agency. The statement shall also certify that NHDOT is

released from any further responsibility for construction of the replacement facility.

Functional replacement may require a personal property move of the public agency, including temporary storage for up to one year, in accordance with the Uniform Act.

If functional replacement is completed after advertisement of the NHDOT/FHWA construction project the Right-of-Way certificate must be reissued to reflect complete acquisition and relocation (level 1 cert).





## **CHAPTER 230 - STATE HIGHWAYS**

### **SECTION 230:13 OCCASION FOR LAYOUT BY GOVERNOR AND COUNCIL; LAYOUT.**

I. The governor, with advice of the council, may determine upon hearing whether there is occasion for the laying out or alteration of a class I or class II highway or a highway within the state included in the national system of interstate highways as proposed by the commissioner of transportation, and, if so, shall appoint a commission of 3 persons who may purchase land or other property that is reasonably necessary for the construction, reconstruction, or alteration and who shall lay out the remainder of such highway or alteration. Any such land or property which cannot be acquired by agreement with the owner or owners thereof may be acquired in accordance with RSA 498-A and all issues that are appealed relating to necessity, public use, and net public benefit shall be determined in accordance with RSA 230:19. Property rights acquired under the provisions of this section shall be in fee simple or in the form of easements, including property acquired by condemnation proceedings.

II. The commission may acquire such property as it determines reasonably necessary to:

(a) Lay out and establish, construct, improve, or maintain, provide a change of alignment of, or provide drainage for class I or class II highways.

(b) Construct, improve, and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects.

(c) Provide rest areas, parking strips, and roadside and landscape development for the preservation and development of natural scenic beauty.

(d) Provide for the health, safety, and welfare of the public using a class I or class II highway.

(e) Secure materials, with necessary ways and access, for the construction, improvement, and maintenance of class I or class II highways.

(f) Erect administrative, storage, and operational buildings.

**Source.** 1945, 188:1, part 4:1. 1950, 5:1, part 9:1, par. 3. RSA 233:1. 1981, 87:1. 1983, 297:7. 1985, 402:6, I (b) (2). 1992, 150:3. 1998, 74:1. 2006, 324:22, eff. Jan. 1, 2007.

### **SECTION 230:14 LAYOUTS BY COMMISSION.**

I. The governor, with advice of the council, may appoint a commission of 3 persons who, upon hearing, shall determine whether there is occasion for the laying out or alteration of a class I or class II

highway or a highway within the state included in the national system of interstate highways as proposed by the commissioner of transportation and if so, the commission may purchase land or other property that is reasonably necessary for the construction, reconstruction, or alteration and shall lay out the remainder of such highway or alteration. Any such land or property which cannot be acquired by agreement with the owner or owners thereof may be acquired in accordance with RSA 498-A and all issues that are appealed relating to necessity, public use, and net public benefit shall be determined in accordance with RSA 230:19. Property rights acquired under the provisions of this section shall be in fee simple or in the form of easements, including property acquired by condemnation proceedings.

II. The commission may acquire such property as it determines necessary to:

(a) Lay out and establish, construct, improve, or maintain, provide a change of alignment of, or provide drainage for class I or class II highways.

(b) Construct, improve, and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects.

(c) Provide rest areas, parking strips, and roadside and landscape development for the preservation and development of natural scenic beauty.

(d) Provide for the health, safety, and welfare of the public using a class I or class II highway.

(e) Secure materials, with necessary ways and access, for the construction, improvement, and maintenance of class I or class II highways.

(f) Erect administrative, storage, and operational buildings.

**Source.** 1945, 188:1, part 4:2. 1950, 5:1, part 9:1, par. 3. RSA 233:2. 1981, 87:1. 1983, 297:8. 1985, 402:6, I (b) (2). 1992, 150:4. 1998, 74:1. 2006, 324:23, eff. Jan. 1, 2007.

#### **SECTION 230:32 REQUIRED FILING.**

Whenever proceedings have been completed under the provisions of this chapter for the taking of land or other property for class I or class II highways the commissioner of transportation shall cause to be recorded in the office of the register of deeds for the respective county where said land or other property is situated a plan of the final taking together with all deeds, if any, received by the state in such taking, which deeds shall make specific reference to said plan, and, if Eminent Domain proceedings have been had hereunder, a copy of the return of the commissioners showing the highway or any alteration by them laid out as provided in RSA 230:20 shall be recorded in said registry of deeds.

**Source.** 1953, 175:1. RSA 233:26. 1981, 87:1. 1985, 402:6, I (b) (2).

**TITLE XLVIII - CONVEYANCES AND MORTGAGES OF REALTY  
CHAPTER 478  
REGISTERS OF DEEDS**

**SECTION 478:1-A RECORDING OF PLATS.**

I. No register of deeds shall file or record a plat of a subdivision, or a plat prepared for the purpose of showing existing property lines, if such plat has not been prepared and certified by a licensed land surveyor, since July 1, 1981, or by a registered land surveyor between January 1, 1970 and June 30, 1981, and any such filing or recording shall be void. For the purposes of this section the definition of the word "subdivision" shall be that contained in RSA 672:14. A "plat" for the purpose of this section shall be a map of a specific land area whose boundaries are defined by metes and bounds. A plat may show:

- (a) Newly created parcels, streets, alleys, and easements as in a subdivision; or
- (b) A lot-line-adjustment or site plan depicting existing parcels defined by legal descriptions contained in deeds, grants, or other legal documents.

II. Each register of deeds shall establish a policy for providing adequate space, on the plat, for recording the registry plan number and recording information.

III. The register of deeds shall refuse for recording any map that does not meet the definition of a plat under paragraph I and any plat that does not contain the information or meet the specifications required by this section. Construction plans, construction details, and maps that do not define the limits or extent of legal rights or interest in land shall not be recorded.

IV. All plats shall be drawn with the following sizes: 8.5" x 11," 11" x 17," 17" x 22," 22" x 34," or such specifications and sizes as may be required by the register of deeds. The material composition of the plats shall be suitable for electronic scanning and archiving by the register of deeds.

V. All plats shall have a minimum of 1/2 inch margins on all sides.

VI. All text and dimensions shall be legible for reproduction, and the text sizes shall be no smaller than .08 of an inch for mechanical drafting and 1/8 inch for hand drafting.

VII. All certifications, seals, and approval blocks shall have original dates and signatures in a legible, permanent black ink.

VIII. All title blocks shall be located in the lower right hand corner, when possible, and shall indicate the following:

- (a) Type of survey, such as a boundary survey, subdivision, American Land Title Association (ALTA) survey, or lot line adjustment.
- (b) Owner of record.

- (c) Title of plat or development.
- (d) Tax map number.
- (e) Name of the town in which the parcel is located.
- (f) Plat and revision dates.

IX. All plats shall have a scale both as a written and graphic representation.

X. All plats shall have a north arrow with reference to magnetic grid or astronomic north, as applicable. The north arrow shall be labeled with its reference direction.

XI. Shading over any text shall not be permitted on any plat. Cross hatching or other hatching at a scale large enough not to interfere with text legibility, before and after reproduction, may be permitted.

XII. No lines, whether hatching, boundary lines, or topographic contours shall obstruct or interfere with the legibility, either before or after reproduction, of any bearings, dimensions, or text.

XIII. The minimum line widths on plats shall not be smaller than .01 inches.

**Source.** 1988, 233:3. 1995, 303:1, eff. Jan. 1, 1996. 2004, 103:1, eff. Jan. 1, 2005.



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

**Sample ROW PLAN REQUEST**

From: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_

To: Chief of Surveys and Mapping \_\_\_\_\_,  
Thru: Assistant Administrator, \_\_\_\_\_

Project name: \_\_\_\_\_ State #: \_\_\_\_\_ Is Project Chargeable by ROW? Yes  / No   
If "No" List Chargeable Project: \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_ Advertising Date: \_\_\_\_\_ Completion Date Requested: \_\_\_\_\_

Brief Project Description: \_\_\_\_\_

Special Considerations:  White Mountains National Forest,  State Lands,  
 Conservation Land,  Condominiums,  Other \_\_\_\_\_

**Type of Request (to be accomplished in descending order):**

1)  Project Limit Review: Determines how the existing Right-of-Way was established within the project area to define the level of survey detail needed to reestablish the Right-of-Way limits. After this has been determined the survey request can be initiated and the preliminary legacy alignment, if applicable, done upon survey completion.

*Include a copy of the as-built plans showing bound locations with the request.*

2)  Tax Map Level ERL/ERT: Right-of-Way types and limits are accurately defined from NHDOT records and other sources based on survey detail. Existing Right-of-Way lines will now be set. Property lines, owner names and parcel numbers are added based on Tax Map information.

This level is completed in order to identify potential areas of impacts beyond the State's ownership and easement rights.

*Provide survey field books and as built plans with the request.*

3)  Abstract Level ERL/ERT: Develops an Abstract of Title for all impacted properties. Property lines and acreages are adjusted based on deeds and plans obtained from the title abstract. *A plan depicting project impacts must be provided with all Abstract Level requests.*

This level needs to be completed prior to calculating impacts.

4)  ERL/ERT Update: Updates title abstracting to find any changes in property owners, parcel lines and acreages. Required before Public Hearing Notification and prior to Purchase Plan production and Property acquisition. *A plan depicting project impacts must be provided with all Update Requests.* Use this box to also request investigation of ROW plan concerns or problems (identify below).

Comments: \_\_\_\_\_

### ROW Plan Request Information Sheet

The ROW Plan Requests need to be completed in the order listed to ensure proper plan development and avoid costly delays and/or rework in the final plan development and ROW acquisitions. At the completion of each level, Right-of-Way will submit a memo to the requester that the level has been completed and that will also list any requirements or issues needing resolution prior to proceeding to the next level. Once the issues or requirements have been addressed and accepted by the Right-of-Way Bureau the requester can precede to the next level.

**Level 1. Project Review should be accomplished at the project initiation.** This is important, as it will determine the level of Survey and Right-of-Way effort needed to complete Level 2. It will also be helpful to the project team in gaining an understanding of the right-of-way limitations within the project area.

Level 2. At this level, all survey detail has been accomplished and the existing detail processed in Microstation for use. The person requesting should also be providing the survey field books and as built plans along with the request. The Right-of-Way Bureau will now develop the existing right-of-way line work (ERL) plan showing the limit of the ROW and existing right-of-way text (ERT) plan for design use. The ROW limits should now be set and finalized and the State's rights ascertained.

This is identified as a tax map level because the ownerships and property interest beyond the ROW line have not yet been determined and is only at tax map level. However, because the ROW is accurate the design team can begin determining the potential areas of impacts for the next level.

Level 3. Once the potential areas of impacts are known, the abstracting of impacted parcels can begin. A title abstract (see below for example) determines property ownership and limits along with any other interested parties, mortgage holders, lien holders etc. of the abutting parcels for the proper notification

prior to public hearing and for the acquisitions of property and easements. **If scope of project changes resulting in additional impacts this level will need to be redone.**

Level 4. Updates the Level 3 plan whenever there are known changes or questions of property ownership and prior to the Public Hearing and within 3 months of Purchase Plan preparation. This level may be repeated depending on project development timeline.

Current Owner(s)

Page 1 of 2

THE CALVIN J. COLEMAN REVOCABLE TRUST OF  
 14 COLEMAN DRIVE  
 ALBANY, NH 03818

Parcel # : 0349  
 State Project : CONWAY  
 Project # : 11339B  
 Parcel Address: 54 RTE 16, ON N'LY SIDE OF RTE 16 @  
 ALBANY-MADISON TOWN LINE  
 County : CARROLL  
 Town or City : MADISON  
 Tax Map : 202 Lot # : 22  
 Area : 68.98 ACRES

Encumbrances

Source Of Title

* CONSENT Book: 1894 Page: 283 Date Of Execution: Witnessed?: No Recorded Date: 12/1/2002 Not Discharged RE: LEASE @ 1868/428, SEE CY	* QUITCLAIM DEED Book: 2488 Page: 373 Date Of Execution: 12/5/2005 Witnessed?: No Recorded Date: 12/12/2005 \$40.00 CALVIN J. COLEMAN TO HIS TRUST, = 2287/65 0 %
* LEASE Book: 1868 Page: 428 Date Of Execution: 5/9/2000 Witnessed?: No Recorded Date: 6/28/2000 Not Discharged OPTION & LEASE TO SBA TOWERS, INC, EXPIRES 2005 W(10) 5 YR EXTENSIONS	WARRANTY DEED Book: 2287 Page: 65 Date Of Execution: 4/1/2004 Witnessed?: No Recorded Date: 4/27/2004 \$5,025.00 JOHNSON ET AL TO COLEMAN, = 2050/222 0 %
* DEED OUT/EASEMENT Book: 426 Page: 361 Date Of Execution: 3/26/1968 Witnessed?: No Recorded Date: 4/9/1968 Not Discharged TO STATE OF NH RE: RTE 16, .12A & SLOPE/DRAINAGE EASEMENT	WARRANTY DEED Book: 2050 Page: 222 Date Of Execution: 8/4/2002 Witnessed?: No Recorded Date: 8/12/2002 \$0.00 PAULINE I. THOMS TO JOHNSON ET AL, = 306/346 & 306/349 0 %
* BOUNDARY LINE AGREEMENT Book: 410 Page: 251 Date Of Execution: 10/20/1966 Witnessed?: No Recorded Date: 12/29/1966 Not Discharged BETWEEN CHMIELEWSKI, SMITH & THOMS, FIXES S'LY & E'LY BNDY OF THOMS PCL	POA Book: 1870 Page: 214 Date Of Execution: 4/15/1992 Witnessed?: No Recorded Date: 7/7/2000 \$0.00 TO WIFE PAULINE I. THOMS, SEE CY 0 %
* EASEMENT/RW LANGUAGE Book: 306 Page: 349 Date Of Execution: 8/4/1955 Witnessed?: No Recorded Date: 8/16/1955 Not Discharged AS PER DEED CY, SEE SAME	QUITCLAIM DEED Book: 362 Page: 541 Date Of Execution: 8/17/1962 Witnessed?: No Recorded Date: 8/28/1962 \$0.00 THOMS TO THOMS, 1/2 INT IN MANY TRACTS INCL 306/346 & 306/349, PURSUANT TO DIVORCE BETWEEN THOMS IN CUMBERLAND COUNTY, MAINE. 0 %
* EASEMENT/RESERVATION LANGUAGE Book: 306 Page: 346 Date Of Execution: 7/25/1955 Witnessed?: No Recorded Date: Not Discharged RESERVATION OF RIGHTS, PIPELINE EASEMENT RE: SWIFT BROOK, SEE DEED CY	QUITCLAIM DEED Book: 360 Page: 274 Date Of Execution: 5/29/1962 Witnessed?: No Recorded Date: 5/30/1962 \$0.00 HASTINGS TO J.ROBERT THOMS, CREATES T/C BETWEEN THOMS, = 360/272 0 %
	WARRANTY DEED Book: 360 Page: 272 Date Of Execution: 5/29/1962 Witnessed?: No Recorded Date: 5/30/1962 \$0.00 THOMS TO HASTINGS, INCL. 306/346 & 306/349, STRAW CONVEYANCE TO CONVERT JT TO T/C. 0 %
	WARRANTY DEED Book: 306 Page: 349 Date Of Execution: 8/4/1955 Witnessed?: No Recorded Date: 8/16/1955 \$5.50 BELL TO THOMS AS JTRS, 10 A LOT @ MADISON - ALBANY TOWN LINE 0 %
	WARRANTY DEED Book: 306 Page: 346 Date Of Execution: 7/25/1955 Witnessed?: No Recorded Date: \$3.30 ST. JOHN TO THOMS AS JTRS, N'LY SIDE RTE 16 IN MADISON & ALBANY 0 %
	Probate Docket: 2002-45 CARROLL Name: J. ROBERT THOMS DOD: 10/20/2001

For Description Refer To :

- \* Deed : 306/346 & 306/349
- \* Plan : 5/52; SEE ALSO 207/70

ENCUMBRANCES

MORTGAGES :	No	RESTRICTIONS :	No	RESERVATIONS :	Yes
TAX LIENS :	No	ATTACHMENTS :	No	EASEMENTS :	Yes



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**Defects & Comments / Description**

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UPDATED @ 9:30 AM 5-23-2007 FOR CONDEMNATION

NOTE: THIS PCL ABSTRACTED BY RVT, UPDATED AS FOLLOWS: BY REW THRU 11/3/95, FROM 11/3/95 BY JHL.  
NOTE THAT ANY INSTRUMENT CY NOT CONTAINED IN THIS ABSTRACT IS ENCLOSED W/PCL #6 ABSTRACT.  
C/O = SOLE OWNER, CALVIN J. COLEMAN AS TRUSTEE OF THE ABOVE TRUST.  
NOTE THAT LEASE @ 1868/428 IS INSPECIFIC AS TO LOCATION, SO IS REPORTED AS APPLYING TO BOTH THIS PCL  
AND TO PCL #6; LESSEE, SBA TOWERS, INC SHOULD BE RUN AS WELL AS C/OS WHEN UPDATING.

-FORMERLY TM 16 LOT 15

-SAME BACK TITLE AS PARCEL 6

-NEW TAX MAPS SAY 69 ACRES, BUT APPRAISAL IS BASED ON OLD FIGURE, SO NO CHANGE WAS MADE - GS

Abstracted By: J.LAPOINTE 1/9/2004

Modified By: J.LAPOINTE 9/29/2004

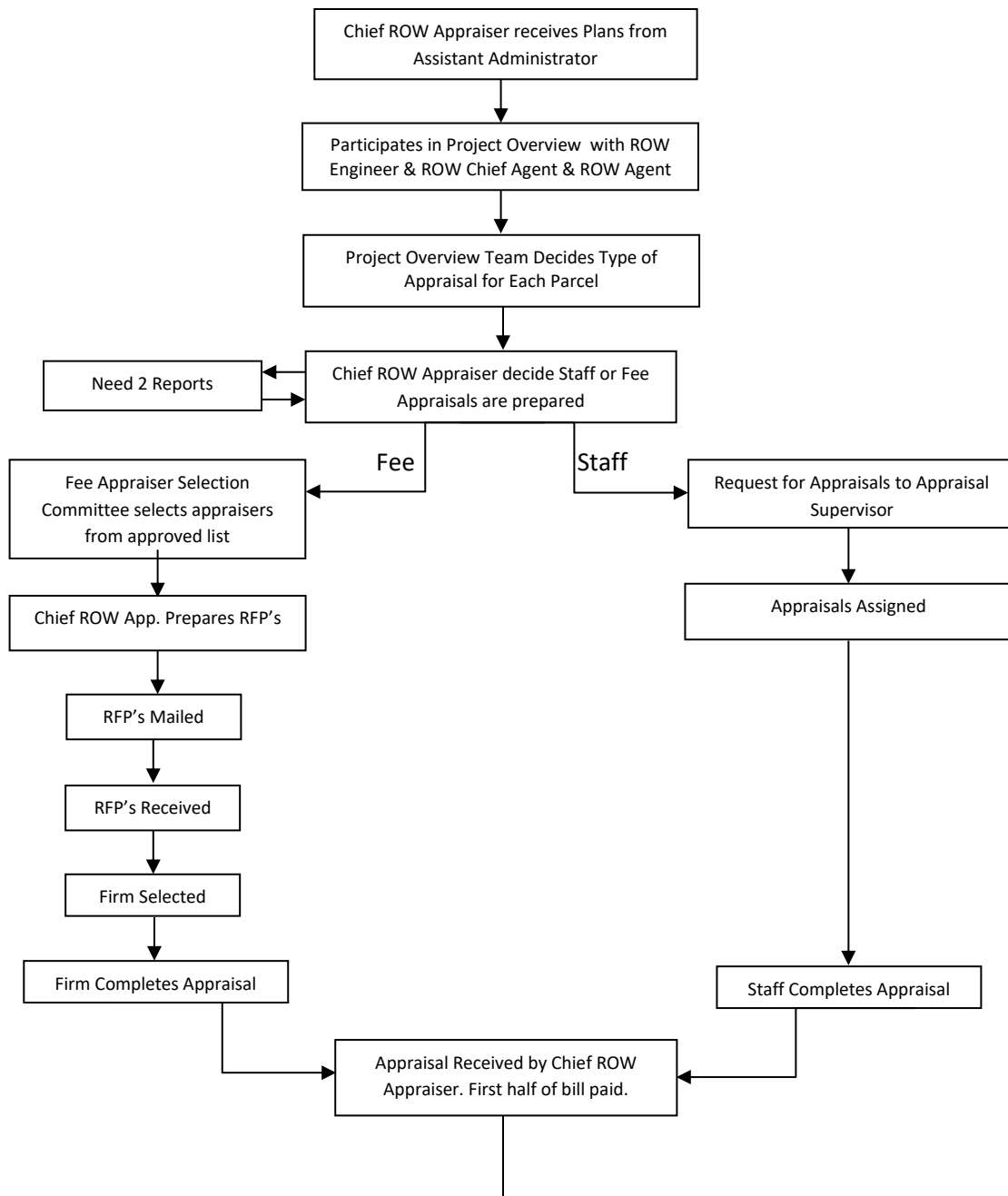
Modified By: J.LAPOINTE 11/16/2005

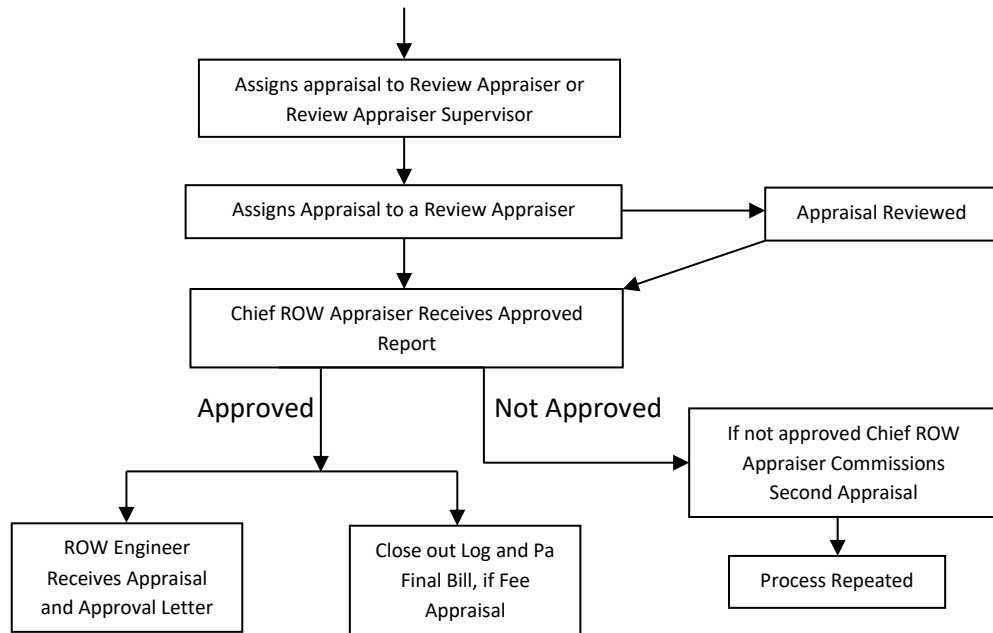
Modified By: J.LAPOINTE 7/11/2006

Modified By: E.SARGENT 5/23/2007

Printed : 12/20/2010

**OVERALL APPRAISAL PROCESS FOR REGULAR PROJECTS**







Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

**REQUEST FOR SURPLUS (EXCESS) LAND DISPOSAL  
DEPARTMENT OF TRANSPORTATION**

- I. ADDRESS REQUEST TO:  
( ), Administrator  
Bureau of Right-of-Way  
NH Department of Transportation  
PO Box 483  
Concord, NH 03302-0483
  
- II. PROVIDE: "I/We wish to acquire State land in the City/Town of .....  
.....":
  - (a) Identify property with sufficient information for the Department to locate on highway plans.
  - (b) Provide plan or sketch to show abutters and outline of property.
  - (c) Indicate what information you used that shows the State as the owner.
  - (d) Submittal requires information as required 710.403, 710.405, and 710.409.
  - (e) Enclose with the request a payment, either by bank check or certified check for the amount of \$500.00 made payable to "Treasurer, State of New Hampshire". This is an Administrative Fee for the processing of your request. Upon receipt of this payment, the Department will begin the disposal process.
  
- III. Your request will be acknowledged and an indication given on what action will be taken. The Property Manager is the coordinator for all actions listed.
  
- IV. State properties under the control of the Department of Transportation are reviewed by several Bureaus within the Department to determine if the property is surplus. This routinely requires investigation by the Bureaus of Highway Maintenance, Environment, Rail and Transit, Highway Design and Turnpikes. If Federal funds were used in the project, concurrence from the Federal Highway Administration is also required.
  
- V. Should land be determined surplus to the Department's needs, the following requirements become necessary depending on the type of ownership. Any or all steps may be necessary. If the parcel involves an abandoned highway easement along the abutter's frontage, then the steps

begin with item (d).

If the Department determines the requested area is not surplus to the Department's needs, the \$500.00 Administrative Fee will be refunded to the requester.

(a) Valuation

The parcel is evaluated to determine fair market value. This evaluation may be completed by an appraiser and/or by real estate professionals depending on the property being sold. The Department will charge an additional fee for this process based on the costs incurred by the Department (minimum \$600.00). The requester will be provided with an estimated cost of the valuation process prior to this work being completed.

(b) Legislative Screening (Long Range Capital Planning and Utilization Committee)

A legislative committee reviews the pending sale for procedure and value.

(c) Right of Refusal

1<sup>st</sup> The property must be offered to the NH Housing Finance Authority.

2<sup>nd</sup> The property must be offered to the municipality where the parcel is located.

3<sup>rd</sup> The property could also be sold or transferred to another state or county agency if interest is expressed.

(d) Governor and Executive Council

The final proposal is brought before the Governor and Executive Council for the authorization to sell the parcel.

(e) Department of Transportation

A sale is then completed by accepting sealed bids or direct sale.

The above process takes 1 year or longer to complete, depending on the individual parcel requirements.

If the requesting party is not the successful bidder for the property, a refund of all paid valuation fees will be made to the requesting party and the successful bidder will be responsible for all valuation fees.

## OUTLINE FOR LEASING STATE OWNED LAND

The following is the typical process for leasing of State Owned Land:

- I. Letter from a potential leasee requesting an opportunity to “acquire” State Owned Land (SOL).
- II. Request for Department Review.
- III. As a result of the Department Review a decision was made (by Property Manager, or Bureau of Right-of-Way Administrator or Front Office) to retain the subject parcel and keep in State ownership. An alternative available to the public is a ground lease for a period of five (5) years with an option for an additional five (5) years (standard term).
- IV. When approval is received to lease the subject parcel, an appraisal is requested to determine the reasonable fair market value of the subject.
- V. A letter to the potential leasee is sent to see if they are agreeable with appraised value before we proceed further with process.
- VI. Submission is made to the Long Range Capital Planning and Utilization Committee (LRCPUC) which meets 3 or 4 times a year at their own pleasure. An original and 16 copies of the submission is forwarded to the Office of the Legislative Budget Assistant for this step.
- VII. After approval from LRCPUC three (3) draft copies of the lease are forwarded to leasee for their review. If okay, they will sign where indicated on signature page. If they request a revision, then if appropriate, the Bureau will make the requested changes and forward three (3) new drafts for their signature.
- VIII. A submission is made to Governor and Council, Secretarial Staff processes to Commissioner’s Office for Commissioner’s signature on both the Resolution and on all three (3) copies of the lease. The signed leases and copies are given to the Attorney General’s Office for review and signature and then to Secretary of State’s Office where they will stay until approved by Governor and Council. Once approved, one copy is forwarded by the Secretary of State to Administrative Services and two (2) copies are returned to ROW.
- IX. Fully executed lease is mailed to leasees with cover letter. Different than a deed where the payment is due in advance of the delivery of the deed, a lease has a clause that allows for its cancellation for non-payment.
- X. Leasees forward payment which is processed as a credit refund to Finance and Contracts into the proper accounts.

## OUTLINE FOR DISPOSAL OF STATE OWNED PROPERTY

The following is the typical sale/transfer process for State Owned Land:

- I. The Department receives a letter from a potential buyer addressed to the Commissioner or directly to the Bureau of Right-Of-Way (ROW) personnel requesting an opportunity to acquire State Owned Land (SOL).
- II. A reply is prepared by the Department to be signed by either the Commissioner (ROW prepared) or from the Property Management Section stating that ROW is working on the request. This outline of the disposal process, Appendix page 192, outlining procedures when disposing of SOL is attached to the letter to the buyer.
- III. Before Bureau personnel begin work on the request, the Department needs to receive a check from the requestor for the amount of \$500.00. This payment is an Initial Administrative Fee and should be a check made out to "Treasurer, State of New Hampshire" An initial Administrative Fee is not necessary when the request is made by a municipality or could be waived at the discretion of ROW
- IV. If the request is of a complex nature or politically sensitive, an Initial Front Office review should be completed before a Departmental Review is requested
- V. Once the initial Administrative Fee is paid and an Initial Front Office Review (if necessary) is complete, a Departmental Review should be requested (see attached Form on page 195)
- VI. When the Departmental Review is complete, the comments are summarized and a Final Front Office Review is prepared. This review is circulated thru the Front Office via the ROW Administrator. Copies of all responses for the Departmental Review as well as other pertinent documentation, a summary of the responses as well as a Final Front Office Review form (orange colored paper) are all forwarded with this Final Front Office Review
- VII. During the Departmental Review, the Bureau of Environment may note that the disposal of this parcel needs to be reviewed by the Rivers Management Advisory Committee (RMAC) or by the Lakes Management Advisory Committee (LMAC). If the parcel is declared to be surplus, a copy of the review sent by Environment as well as a cover letter should be sent to the Committee specified. This request should be sent to either entity by both e-mail and messenger mail.
- VIII. If the property is declared surplus the Department's needs, the next step is to establish a fair market value for this parcel. To do this, the Pre-qualification Committee will review the parcel and determine how the property will be valued. Properties can be valued by either an appraisal



by a Staff Appraiser, requesting market analysis through Tra 1000 “Process for Marketing and Sale of State Owned Property Utilizing Real Estate Professionals” or by both methods if deemed necessary. These market analyses are requested by pre-qualified realtors on file in ROW located in 4 regions of the State. A copy of this request along with pertinent maps and appraisal information should be sent to all firms in the Region that the property is located.

- IX. Once values are received, the Pre-qualification Committee makes a recommendation of a value that the State will present to the Long Range Capital Planning and Utilization Committee (LRCPUC). For landlocked properties with value only to an abutter, the buyer is sent the proposed value to be sure they are in agreement with the value before proceeding.
- X. Submissions are sent to the Long Range Capital Planning and Utilization Committee (LRCPUC), which meet about 6-8 times a year, at their discretion. An original and 19 copies of the submission are forwarded to the Office of the Legislative Budget Assistant located in Room 201 at the State House.
- XI. Upon receiving approval by LRCPUC, before the Department proceeds with the sale of this parcel, letters need to be sent to the municipality in which the property is located as well as the New Hampshire Housing Finance Authority (NHHFA) offering the property to them for sale at the approval value prior to offering the sale of the property to the public. We request a 30-day notice to notify the Department of their interest.
- XII. If no response is received from the municipality or the NHHFA, the Department would proceed with the sale of this property by either signing a listing agreement with a pre-qualified realtor, a sealed bid process to the general public is conducted, a sealed bid process with the abutters only or a direct sale is made with the conditions as approved by LRCPUC.
- XIII. Once a potential buyer is found under the conditions with Long Range, a submission is made to Governor and Executive Council, which the secretarial staff processes for Commissioner’s signature and then makes necessary copies for submission.
- XIV. Governor and Executive Council approval.
- XV. A draft of a Quitclaim Deed is sent to buyer for review and comment.
- XVI. Final documents are prepared and forwarded for the Commissioner’s signature.
- XVII. The sale is finalized either at a closing or by mail. If by mail, a fully executed deed is mailed to the buyer once full payment is received with registry postcard and instructions.

- XVIII. The payment received is processed as a credit refund to Finance and Contracts into the proper accounts. When the registry postcard is returned to ROW, the recording information with a copy of the executed deed/ G&C resolution and other pertinent information are forwarded to the respective Maintenance District that the property is located. Also a note of this sale is made on the record plan(s) on which this property is located. Finally pertinent documentation concerning this sale placed either in the corresponding jacket file(s), project folder(s) or in the ROWMS under the corresponding parcel(s).

This process is a guide only and may vary due to the particulars of a specific request



Date Adopted: May 20, 2019
Last Updated: December 19, 2018

STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION

FROM: ( ) Administrator DATE:
SUBJECT: Final Front Office Review Property Disposal Request AT: Dept. of Transportation Bureau of Right-of-Way
TO: ( ) Commissioner
THROUGH: Assistant Commissioner and All Directors

The Department has received correspondence from requesting the opportunity to:

Purchase property purchase an easement lease other
located in the Town/City of

This request has been placed through a Departmental Review (comments attached)

The Bureau of Right-of-Way comments concerning this request:

Administrator, Bureau of Right-of-Way: concur do not concur (Initials) (date)

Comments:

\* \* \* \* \*

Prior to proceeding with the: Appraisal G&C submission

It would be appreciated if this request was reviewed by members of the Commissioner's Office.

Assistant Director of Project Development: concur do not concur (Initials) (date)

Comments:

\* \* \* \* \*





**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

\_\_\_\_\_  
 \* \* \* \* \*  
Commissioner:  concur  do not concur \_\_\_\_\_  
 (Initials) (date)

Comments: \_\_\_\_\_

\_\_\_\_\_  
 \* \* \* \* \*

Please return this file to the Administrator of the Right-of-Way Bureau after review. Attached is correspondence and related information for this request. Feel free to contact either the Property Manager or myself should you have questions or need further information.


Administrator, Bureau of Right-of-Way: After the review of all comments by the Front Office, I request the Property Management Section to proceed as follows:

\_\_\_\_\_  
 (Initials) (date)  
 Appraisal  G&C submission  Market Analysis  \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

### Color Legend For Plans

 Red Property lines, Right-of-Way lines


 Red Buildings acquired

 Green Land Acquired

 Blue Drainage/Channel Easements

 Yellow Slope Easements

 Orange Temporary Construction Easements

 choose color Other

---

LAROW- limited access right-of-way

## Sample Conceptual Study Memo

### STATE OF NEW HAMPSHIRE INTER-DEPARTMENT COMMUNICATION

**FROM:** Right-of-Way Agents **DATE:** June 8, 2018  
**SUBJECT:** Bow - Concord # 13742 **AT:** Dept. of Transportation  
Conceptual Study Bureau of Right-of-Way  
**TO:**  
**THRU:** Administrator Bureau of Right-of-Way

A study was conducted on the above referenced project as to the number of possible displacements. This report follows the guidelines prescribed by the New Hampshire Department of Transportation, Right-of-Way Relocation Policy and Procedures Manual, Chapter 6, and the FHWA Technical Advisory dated October 30, 1987.

- I. This study contains an estimate of the displacements likely to occur. It is understood that design modifications may ultimately change the total number of displacements on the selected alignment.

All of the estimated acquisition costs include only those complete acquisitions that comprise land and buildings, and do not reflect any partial acquisitions of land only.

The estimated acquisition costs were derived from preliminary estimates of costs, developed by the Department's Bureau of Right-of-Way. They do not reflect costs generated by in-depth appraisals.

At the time of this study, there appear to be three (3) residential relocations, comprised of single family properties, as a result of impacts from the layout of the preferred alignment. The current residential market, in the project area and surrounding towns, shows an adequate number of properties for sale and rent. Any individual with disabilities, or any elderly displacees, will be specifically identified prior to the acquisition stage and their special needs addressed accordingly.

Displaced residents may be eligible for relocation benefits, which will include Relocation Advisory Assistance Services. An eligible residential may also choose from:

- Payments for actual reasonable moving expenses
- OR
- A fixed schedule move based on room count

And possibly be eligible for a:

- Replacement housing payment
- OR
- Supplemental rental payment

- II. There will be approximately three (3) active businesses relocated as a result of impacts from the layout of the preferred alignment.

Displaced businesses may be eligible for relocation benefits, which will include Relocation Advisory Assistance Services. An eligible business may also close from:

- Payments for actual reasonable moving expenses incurred  
AND
- Business Re-Establishment expense  
OR
- A fixed business payment

As a result of impacts associated with the preferred alignment, the businesses that will be potentially affected are a gas station / convenience store, an auto repair shop, and a metal scrap/auto and truck salvage yard. In our search of real estate websites there were a limited number of sites available to accommodate these businesses, as each business has its own unique relocation challenges, as detailed below;

- a. Gas station /convenience store: The impacted property is owned by a corporation which is currently leasing the business. As a result this may sever ties between the corporation and business owner. There were no comparable properties for sale or lease for this business in the project area. A limited amount of gas station / convenience stores for sale only are available throughout the State of New Hampshire. Currently two available properties were found, outside the project limits, for purchase in Hillsborough County and Rockingham County. This business may need to use professional services to determine the feasibility of a replacement site.
- b. The auto repair shop; There were limited sites available for this business to lease and/or purchase within the project area, but potential available sites increase outside the project area. The relocation issues are similar to those stated for the gas station / convenience store. The business is currently operating on a month to month lease. Advance moving payments may be required to assist this business to initiate the relocation process.
- c. Metal scrap yard; in our search for comparable and available properties, there are only two scrap metal business for sale in the state of New Hampshire. This business is one of the two currently for sale. The other business is located in Grafton County, which is far outside of the projects limits, thus leaving only one viable option at this time.

We considered industrial land for sale and existing commercial and/or industrial land with buildings for sale or lease as a viable option. Potential land site selection would not necessarily guarantee the approval of a salvage yard, thereby limiting the business's ability to relocate. Professional services would be needed to help determine if this is a possible option.

If an acceptable site is found, the cost to move the entire 3 +/- acres of scrap metal, which includes multiple disabled vehicles, could be extremely costly.

As a result of the impacts associated with the preferred alignment, this business may be forced to close.

- III. A survey of available commercial properties was conducted through the Multiple Listing Services (MLS) as well as a variety of real estate websites. The survey indicated a minimal number of commercial spaces for rent in the project area and surrounding towns to accommodate the displacees, due to the uniqueness of the businesses being relocated.
- IV. During the fact finding of this study it was determined that no Title VI issues were discovered. In the event this changes the Department will address any issues as they at the time of potential relocation, if applicable.
- V. Through public informational meetings and discussions with local officials, area residents and property owners, the Department has been made aware of the general concerns as well as some specific concerns with respect to the displacement of businesses. At this time, it was determined that the businesses could not be relocated with ease and some potential resolutions were discussed above.



- VI. The acquisition and the relocation program will be conducted in accordance with the Uniform Relocation Assistance and Real Property acquisition Policies Act of 1970, as amended. A Right-of-Way Agent will be assigned to manage any relocation problems of the affected parties.

Any further information or assistance regarding displacements on this project may be obtained by contacting the New Hampshire Department of Transportation. Physical evidence of this report is available through the bureau of Right-of-Way, John O. Morton Building, and 7 Hazen Drive, Concord, New Hampshire.

Costs:

Estimated Value	\$ x,xxx,xxx.xx
Moving Costs	\$ x,xxx,xxx.xx
Rental Moving Cost	\$ xxx,xxx.xx
Reestablish Business Payment	\$ xxx,xxx.xx
<b>Total</b>	<b>\$ x,xxx,xxx.xx</b>



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

**Acquisitions  
Agent's Checklist**

Initials/date \_\_\_\_\_

**In the Beginning**

- \_\_\_\_\_ Update title abstract (if over 6 months old and as necessary)
- \_\_\_\_\_ Review Appraisal
- \_\_\_\_\_ Request "approval only" of Just Compensation (only if amount is ≥ \$5,000.00)

**Assemble Offer Package**

- \_\_\_\_\_ Copy of the Appraisal Report
- \_\_\_\_\_ Full size plan sheet(s) colored-up to show impacts clearly
- \_\_\_\_\_ Offer & Agreement Form (3 copies)
- \_\_\_\_\_ W-9 populated w/ pertinent info (only on acquisitions ≥ \$600.00)
- \_\_\_\_\_ Tax pro-ration form populated w/ pertinent info (only on acquisitions w/ fee impacts)
- \_\_\_\_\_ Copy of "Your Land and New Hampshire's Highways"
- \_\_\_\_\_ Business Card
- \_\_\_\_\_ Satisfaction Survey Receipt Method Preference Card
- \_\_\_\_\_ Cover Letter (if mailing offer)
- \_\_\_\_\_ Property transfer document(s) (deed, easement, right-of-entry, mortgage release(s) that have been reviewed by a qualified senior agent.

Supervisor or designee signature and date \_\_\_\_\_

**Set-up Appointment**

- \_\_\_\_\_ Call owner(s) and set up an appointment to meet and present the offer
- \_\_\_\_\_ Coordinate the meeting with an available Commission Member (default = a qualified ROW Agent)

**Presentation of the Offer**

- \_\_\_\_\_ Meet w/ owner(s), present and discuss the plan, the appraisal, the offer, etc.
- \_\_\_\_\_ Inform owner(s) of how the acquisition process will work i.e. statutory timelines, condemnation
- \_\_\_\_\_ List owners' concerns/questions that need to be researched
- \_\_\_\_\_ Complete and return Satisfaction Survey Receipt Method Preference Card
- Assigned Agent signature and date \_\_\_\_\_

**Following the Offer**

- \_\_\_\_\_ Research answers to owner's concerns/questions that couldn't be answered at the initial meeting
- \_\_\_\_\_ Discuss what you learned w/ the owner(s) to attempt resolution of issues
- \_\_\_\_\_ Maintain an open dialogue with owner(s) throughout the negotiation period, with the goal of completing the acquisition/condemnation process within the established Bureau timeline.

**If Negotiations are Successful**

- \_\_\_\_\_ Finalize the offer and retrieve an executed copy of the Offer & Agreement form, w-9 form and, if applicable, the transfer document.
  
- \_\_\_\_\_ Also, if applicable, draft an Administrative Settlement request. If a counteroffer is less than half of the value of the Just Compensation Offer and does not exceed \$10,000.00, the request can be approved by the Bureau Administrator. If a counteroffer exceeds either threshold, the request must be approved by the Commissioner through the Bureau Administrator.
  
- \_\_\_\_\_ Pursue appropriate releases from mortgagees/easement holders/encumbrances
  
- \_\_\_\_\_ Reviewer sign off
  
- \_\_\_\_\_ Request check(s)
  
- \_\_\_\_\_ If not previously completed, finalize transfer document(s)
  
- \_\_\_\_\_ Set up closing w/owner(s)
  
- \_\_\_\_\_ If face to face, Notarize transfer document
  
- \_\_\_\_\_ Retrieve completed and signed W-9,
  
- \_\_\_\_\_ Compile package, sign off and give to Supervisor for review
  
- \_\_\_\_\_ IF, a transfer document is executed and received back here, prior to a check being issued, the document shall be held in Escrow by the Chief ROW Agent until such a time as the check becomes available for delivery to the owner.
  - Chief ROW Agent or Supervisor signature and date  
\_\_\_\_\_
  
- \_\_\_\_\_ Deliver check

**If closing by mail**

\_\_\_\_\_ Mail out transfer docs only, no check before all executed documents are received back here.

\_\_\_\_\_ Supervisor reviews completed/executed documents.

- \_\_\_\_\_

\_\_\_\_\_ Chief or Assistant Administrator signs off – okay to issue check

\_\_\_\_\_ Mail out check when properly executed documents are received – checks to be mailed certified return receipt if over \$5,000

\_\_\_\_\_ Supervisor reviews all info, including check sent & Green Card received for check

- \_\_\_\_\_

\_\_\_\_\_ After transfer is complete, record all necessary documents at the appropriate Registry of Deeds

\_\_\_\_\_ Process any remaining paperwork i.e. pro-ration of property tax reimbursements, etc.

**If Negotiations are Unsuccessful**

\_\_\_\_\_ Prepare a condemnation package as outlined in a document named “Condemnation Checklist” located in the Agent folder on the “S” Drive. Follow the outlined steps to completion.

**General Items that You Need to Know**

- \_\_\_\_\_ Enter diary notes into the ROWMS, throughout the entire process, for every pertinent event relative to the parcel i.e. phone discussions, e-mails, meetings, directives, etc.
  
- \_\_\_\_\_ After a parcel acquisition is completed, a peer will perform a review of the contents of the file in the ROWMS. This review shall be for minimum file documentation as outlined in a document titled "MINIMUM DOCUMENTATION FOR ATTACHED FILES – PARCEL FOLDER" found in the Agent folder in the "S" drive.
  
- \_\_\_\_\_ Peer Review completed sign off

### **Procedures for recording ROW Plans and creating permanent record plans**

After all ROW has been acquired; the ROW Agent assigned to the project will review and verify the most current revision of the ROW purchase plans to assure that the property owners name and the areas acquired, agree with the acquisition documents.

The assigned Agent will request that Highway Design team make the necessary changes to a final revision. The Highway Design team will confirm with Land Titles any changes involving title, and property lines.

After reviewing the final version for accuracy, The assigned Agent will then request from the Highway Design team a ½ scale set of the final revision and create (following the below listed procedures) a permanent record plan in the Right of Way Management System (ROMS) and in the Highway Design Record Section.

The Assigned Agent will also create a second ½ scale plan for the Property Management Section, which only hi-lights properties acquired that are outside the project needs.

### **Procedures for recording ROW plans**

- 1) One set of ½ scale plan shall be colored using the attached color chart as a legend. Use alternating colors to differentiate property takings (example: one can alternate between green and color X to differentiate each property) and be cognizant of the color choices so that they do not clash with the easement(s) color(s), This copy is to be scanned into the Right of Way Management System under the project acquired for. The copy is then recorded as per the instruction listed below.

In the Project Plan book (Map Book located in the Record Section), locate the project by County(s)/ Town(s). Hi-light the impacted area, this may require more then one page in the event that a project cross into another town. Enter the project numbers, and index number, sequentially on the page to the left, this must be done on each sheet involving the project.

Edge each sheet of the project plans with clear tape, attach a blank sheet to the back of the plans, staple and tape the left edge, roll plans, and on the exposed edge of the blank sheet, add the index number (tube) and project number and name.



**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

Inform Craig Drouin that the Record Plans are complete and provide him the following:

Tube number

Name of City/Town

Project number

Craig will then update the Record section of this recording information for their files.

Inform Record Plan coordinator that the Record Plans are complete (currently Craig Drouin) so they can track this on the Record Plans Status Spreadsheet and Carbon Copy Jerrod Rodimon.





Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Replacement Housing Comparison Record**

<b>REPLACEMENT HOUSING COMPARISON RECORD</b>	PROJECT: _____
	STATE #: _____
	FEDERAL #: _____
	FILE#: _____
	DATE: _____
RIGHT OF WAY AGENT: _____	

- OWNER  
 TENANT

FULL NAME AND ADDRESS OF OWNER/TENANT	COMPARISON CHOSEN
Name: _____	Address: _____
Address _____	City/Town/State/Zip: _____
City/Town/ State/Zip _____	
Phone: _____	

**OWNER**

1. Approved appraisal offer for Displaces Residential Property: \$ \_\_\_\_\_
2. Adjusted asking price of comparable # \_\_\_\_\_ \$ \_\_\_\_\_
3. **Computed amount of eligibility: 2 minus 1:** \$ \_\_\_\_\_

**TENANT**

- A. Rental amount used to figure rental supplement payment. \$ \_\_\_\_\_
- B. Actual rent or economic rent currently being paid. \$ \_\_\_\_\_
- C. Monthly difference equals the lesser of A. or B. minus C. \$ \_\_\_\_\_
- D. Rent supplement payment equals monthly difference (line C.) x 42 months. \$ \_\_\_\_\_

The amount of this supplemental payment has been determined by me, based upon the attached information compiled by the Right-of-Way Agent, and the amount is to be used in connection with a highway project and we have no direct or indirect present or contemplated personal interest in this transaction nor will we derive any benefit from the supplement payment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Right of Way Agent Chief

**Decent, Safe and Sanitary Comparables - Sample Comparison Grid**

UNIT	SUBJECT PROPERTY	COMPARABLE #1	COMPARABLE #2	COMPARABLE #3
Asking Price	N/A			
Adjusted Price *				
Address				
Square Footage				
Rooms				
Bedrooms				
Adequate in size to accommodate the displaced person				
Adequate heating system capable of sustaining approximately 70°				
Adequate electrical; connections for lighting and other devices				
Bathroom with sink, toilet, tub or shower that is well lit, ventilated & approximately connected				
Kitchen w/sink, hot & cold water, connections for stove & refrigerator				
Water Source				
Sewer Source				
Points of egress				
Appears structurally sound, weather tight, and in good repair				
Lot Size				

\* Adjustment used to determine the difference in the asking and selling price \_\_\_\_\_%



**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

**Residential Validation And Displacee Data**

FULL NAME AND ADDRESS OF OWNER/ TENANT _____  PHONE: _____	PROJECT: _____ STATE #: _____ FED # _____ FILE #: _____ DATE: _____ Right of Way Agent: _____
--	--

IT IS HEREBY CERTIFIED, THAT I/WE \_\_\_\_\_  
 \_\_\_\_\_  
 am/are resident(s) at \_\_\_\_\_  
 \_\_\_\_\_  
 and have resided at this location since \_\_\_\_\_ **As An** OWNER  TENANT

**I Further Certify:**  
 I/We have a New Hampshire Driver's License # \_\_\_\_\_  
 \_\_\_\_\_

Total Number of people living in household: \_\_\_\_\_ Total Number of school age children: \_\_\_\_\_

**EMPLOYMENT**

Person Employed	Place of Employment	Distance	Mode of Travel

**FINANCIAL**

**Owner**  
 Do you presently have a mortgage? \_\_\_\_\_ Approximate Value: \_\_\_\_\_

**Tenant**  
 What is your Current Rent? \_\_\_\_\_ Monthly Utilities: \_\_\_\_\_ Yearly/Monthly

DO YOU HAVE ANY SPECIAL NEEDS OR CONCERNS THAT YOU FEEL WE SHOULD KNOW?  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I/We understand that this information is being provided under oath to determine my/our eligibility for Relocation Assistance Benefits as provided under Federal and State Law.

Date: \_\_\_\_\_ Displacee: \_\_\_\_\_  
 Date: \_\_\_\_\_ Displacee: \_\_\_\_\_



**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

Signed and sworn to on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned officer, by \_\_\_\_\_, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that executed the same for the purposes herein contained.

By: \_\_\_\_\_  
Justice of the Peace



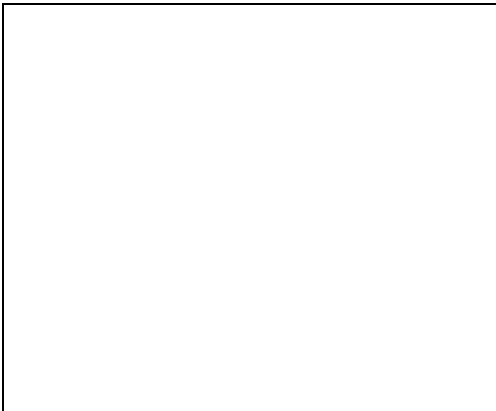
Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

### Housing Inspection Form

## HOUSING INSPECTION

Project Name: \_\_\_\_\_  
 State #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right of Way Agent: \_\_\_\_\_

Displacee Name: \_\_\_\_\_  
 Property Location: \_\_\_\_\_  
 State Appraised Value: \$ \_\_\_\_\_  
 Listed Price: \_\_\_\_\_  
 Basic Rent: \$ \_\_\_\_\_  
 Utilities: \$ \_\_\_\_\_  
 Total Rent: \$ \_\_\_\_\_



Contact: \_\_\_\_\_

A. Style of House:				
Condition				
Number of Rms		Rooms		Bdrms
Lot Size				
B. Decent, Safe and Sanitary			Yes	No
Adequate SF and room count				
Hot & Cold Water				
Adequate 3 pc. Bath				
Adequate Heating System				
Adequate Sewerage				
Adequate Light & Wiring				
Adequate Egress				
Structurally Sound				
Sink & Appliance Hookups				

C. Room size and square footage				
	W	L		SF
Living				SF
Dining				SF
Family				SF
Kitchen				SF
Bedroom 1				SF
Bedroom 2				SF
Bedroom 3				SF
Bedroom 4				SF
Other				SF
Basement				SF
Type Heat				
Electricity				
Sewer Sys	Pri	Water		
Usable SF	1497	Zoning		



**Date Adopted:** May 20, 2019  
**Last Updated:** December 19, 2018

Remarks: \_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the above property was examined by me and personally inspected and found to be as stated.

\_\_\_\_\_

Date

\_\_\_\_\_

Right of Way Agent



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

### Ninety Day Notice Sample

Re:  
- Ninety (90) Day Notice

Dear \_\_\_\_\_:

The Layout Commission met with you on \_\_\_\_\_, to discuss the State’s offer for your property and the relocation benefits for which you may be eligible to receive under the Uniform Relocation Act.

This ninety (90) day notice is being sent to inform you that the earliest date by which you may be required to move from your property is (date) \_\_\_\_\_. Your actual vacating date will be determined after the State has received title to your property. I will forward you another letter specifying an actual vacating date.

During the Commission’s discussion with you and based on an offer of \$ \_\_\_\_\_ dollars, the Commission indicated that you may be eligible for up to \_\_\_\_\_ (\$ \_\_\_\_\_) dollars as a replacement housing payment. The comparable unit that was used to establish this eligibility is located at (Physical Address) \_\_\_\_\_. In addition to the replacement housing payment, you may be eligible to receive reimbursement for closing costs, increased interest and moving expenses.

Upon making final arrangements to vacate the property you occupy, it is important that you notify me immediately so the property can be serviced, secured and utility responsibility transferred to the State of New Hampshire. All personal items need to be removed from the property by the vacating date.

Please also be aware that the State’s offer is based on the condition of your property at the date of the appraisal. Damage to the appraised property or removal of items of realty from the property could result in a reduction in the State’s offer.

The Department will continue to assist you through this difficult period of moving. If you have any questions, you may contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

/  
CERTIFIED MAIL

cc:

\_\_\_\_\_, Chief Right-of-Way Agent  
\_\_\_\_\_, Property Manager

Bureau of Right-of-Way  
JO Morton Building – Room 100  
PO Box 483  
Concord, NY 03302-0483  
Tel: (603)271-3222



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

**Actual Vacating Notice Sample**

Re: Actual Vacating Notice

Dear:

In my Ninety (90) Day Notice letter dated July 20, 2015, I indicated you would receive a letter specifying a vacating date after the State received title to your property. Please consider this your vacating notice.

As you are aware the State acquired title to your property on August 6, 2015. Your official vacating date is (*date*) \_\_\_\_\_. The Department will continue to work with you and offer assistance until you have successfully moved.

It is important you notify me prior to actually vacating the premises so I can coordinate servicing the property and transfer of utilities to the State.

I would like to remind you, that you shall not remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required. If you have a question regarding an item's status, please consult with me.

Again, if you have further questions or if the Department may assist you in any way through this difficult period, please do not hesitate to contact me by calling (603) 271-1632 or 271-3222.

Sincerely,

Right-of-Way Agent

/  
CERTIFIED MAIL  
cc:

\_\_\_\_\_, Chief Right-of-Way Agent  
\_\_\_\_\_, Property Manager





Date Adopted: May 20, 2019
Last Updated: December 19, 2018

Sample Waiver Vacating Notice

VACATING NOTICE
WAIVER

Project Name:
State #:
Parcel #:
Date:
Right-of-Way Agent:

Table with 2 columns: Displacee's Name and Address, Address Moved To. Rows include Name, Street, City, State, Zip, Telephone.

- 90 Day Notice Waiver
30 Day Notice Waiver

The above notice(s) have been waived for the following reasons:

- Vacant when acquired by Agency
Displacee moved before official vacating date was established.
Other:

I also certify that this waiver conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

Signature lines for Chief Right-of-Way Agent, Date, Administrator, Bureau of Right-of-Way, Date, and Print Name.



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Claim For Replacement Housing Payment**

**CLAIM FOR  
 REPLACEMENT  
 HOUSING PAYMENT**

Project Name: \_\_\_\_\_  
 State #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

Displacee's Full Name and Address		Address Moved To:	
Name: _____		Street: _____	
Street: _____		City: _____	
City: _____		State: _____	Zip: _____
State: _____	Zip: _____	Telephone: _____	
Telephone: _____			

Item	Acquisition Compensation Total Award Amount
A. Acquisition Price or Carve-out Value	_____
B. Price of Comparable dwelling as determined by agent	_____
C. Price of Replacement dwelling purchased by displacee	_____
D. Replacement housing payment {(Lesser of B or C) minus A}	_____

<b>Make check payable to:</b> Name: _____	<b>Total Payment for this Claim:</b> \$ _____
--	--

I, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures

\_\_\_\_\_  
 Claimant's Signature Date

\_\_\_\_\_  
 Claimant's Signature Date

I certify that to the best of my knowledge that the above expenses have been incurred and are supported by the attached documentation.

\_\_\_\_\_  
 Right-of-Way Agent, Print Name/Signature Date

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I also certify that I have examined this claim and have found it to conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

_____ Chief Right-of-Way Agent Print Name/Signature	_____ Date	_____ Administrator, Bureau of Right-of-Way, Print Name/Signature	_____ Date
---	---------------	---	---------------

**Sample Replacement Housing Inspection**

**REPLACEMENT HOUSING**

**INSPECTION**

Project Name: \_\_\_\_\_  
 State #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

Displacee's Name: \_\_\_\_\_

Address of Inspected Property	
Street: _____	Style of House: _____
City: _____	Condition: _____
State: _____ Zip: _____	Number of rooms: _____
	Number of Bedrooms: _____

1. Appears to conform to all existing codes for buildings, plumbing, electrical and housing and occupancy codes. (Attach occupancy permit if required)
2. Has a continuing and adequate supply of potable safe water.
3. Has a kitchen with a sink equipped with hot and cold water.
4. Has an adequate heating system, which will maintain a 70-degree min. temperature.
5. Has bathroom well ventilated, lighted, and containing a lavatory basin and bathtub or shower stall, connected to an adequate sewage disposal system. Hot and cold water must be connected.
6. Has provisions for artificial lighting for each room.
7. Is structurally sound, in good repair and adequately maintained.
8. Each building used for dwelling purposes shall have a safe unobstructed means of egress leading to safe open space at ground level. In multi-dwelling buildings of 3 stories or more, the common corridor on each story must have at least two means of egress.

APPROVED

I certify that I have examined the new location described above and that the new residence meets the requirements for Decent, Safe and Sanitary housing as required by Federal regulations.

\_\_\_\_\_  
 Right-of-Way Agent, Print Name/Signature Date

NOT APPROVED (See reasons below)

\_\_\_\_\_  
 \_\_\_\_\_



Date Adopted: May 20, 2019
Last Updated: December 19, 2018

Sample Advance Replacement Housing Payment in Condemnation Cases

ADVANCE REPLACEMENT HOUSING

PAYMENT IN CONDEMNATION CASES

Advancement of the replacement housing payment can be accomplished, provided the following points are agreed upon by the property owner:

- 1. Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined by the State necessary to acquire a comparable, decent, safe, and sanitary dwelling.
2. If the amount awarded in the condemnation proceeding as the fair market value of the property acquired, plus the amount of the provisional replacement housing payment exceeds the lesser of the price paid for or the State's determined cost of a comparable dwelling, he will refund to the State, from his condemnation judgment, an amount equal to the amount of the excess. However, he shall not be required to refund more than the amount of the replacement housing payment advanced.

Reference: FHPM 7-5-4(f) 1 & 2

Displacee's Signature

STATE OF NEW HAMPSHIRE,

SS

A. D., 2018

On this, the \_\_\_ day of \_\_\_, 2018, before me, the undersigned officer, personally appeared \_\_\_, known to me to be the person whose name (s) \_\_\_ subscribed to the within instrument, and acknowledged that \_\_\_ executed the same for the purposes herein contained.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND

Justice of the Peace/Notary Public
My Commission Expires: \_\_\_\_\_



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Advanced Replacement Housing Payment Form**

New Hampshire Department of Transportation - Bureau of Right-of-Way

<p><b>ADVANCED REPLACEMENT HOUSING PAYMENT</b></p>	<p>Project Name: _____          State #: _____          Parcel #: _____          Date: _____          Right-of-Way Agent: _____</p>
--	---

<p>Owner's Full Name and Address</p> <p>Name: _____          Street: _____          City: _____          State: _____ Zip: _____          Telephone: _____</p>	<p>Address Moved To:</p> <p>Street: _____          City: _____          State: _____ Zip: _____          Telephone: _____</p>
--	---

Dear .....

Your Right-of-Way Agent has established that your Replacement Housing Payment (RHP) eligibility is (\$ ) dollars. This amount was determined by reviewing functionally equivalent homes for sale in the market place. This functionally equivalent home value is higher than the State's offer to purchase your residential property. The RHP is additional money your right-of-way agent has determined you may need to relocate to a functionally equivalent home in your area.

	Amount
Acquisition Price (State's offer)	\$ _____
Price of Replacement House (as determined by agent)	\$ _____
Total available for RHP	\$ _____

Please be aware that your RHP may be directly affected if you are granted compensation through a negotiated settlement, the Board of Tax and Land Appeals, or subsequent legal proceedings.

**For an Example.** If the Board of Tax and Land Appeals were to compensate you one thousand (\$1,000.00) dollars above the State's offer, your maximum eligibility for your RHP will be reduced by one thousand (\$1,000.00) dollars.

**EXAMPLE ONLY**

	Amount
Acquisition Price	\$100,000.00
Awarded compensation	\$1,000.00
Adjusted RHP	\$1,000.00
Total RHP	\$ - 0 -

s:\agents\wad\rowms\2006reloforms\ra12-06.doc  
 Revised 03/14/06

1 of 2 RA12-06



I/We, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures. If I/We receive any additional monies in my/our appeal to the Board of Land & Tax Appeals, I/We agree to reimburse the State of New Hampshire any advanced Replacement Housing Payment affected by my/our award. I/We also authorize you the right to deduct these amounts directly from my/our award.

\_\_\_\_\_  
Claimant's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Claimant's Signature

\_\_\_\_\_  
Date

EXAMPLE



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Incidental Closing Expenses And Increased Interest Claim Form**

**INCIDENTAL CLOSING EXPENSES AND INCREASED INTEREST CLAIM FORM**

Full Name and Address of Owner		Project Name: _____	
Name: _____		State Project #: _____	
Street: _____		Parcel #: _____	
City, St, Zip: _____		Date: _____	
Telephone: _____		Right-of-Way Agent: _____	

1. Price of Comparable	\$ _____	2. Price of Replacement Home	\$ _____
3. Old Mortgage Balance	\$ _____	4. New Mortgage Amount	\$ _____

Name of Lender: Street: City: State: _____ Zip: _____ Telephone: _____	Estimated Charges Date Figured: _____ Good Faith Estimate	Actual Charges Date Figured: _____ Closing Settlement
Loan Origination Fees: (based on lower of old mortgage payoff or new loan minus increased interest payment, if any)		
Appraisal Fees:		
Credit Report:		
Application Fees:		
Tax Service Fees:		
Flood Certification Fees:		
Underwriting Fees:		
Attorney Fees:		
Title Insurance - Lenders (Title insurance not to exceed the price of comparable)		
Title Insurance - Borrowers (Title insurance not to exceed the price of comparable)		
Recording Fees:		
State Tax Stamp: (Pay up to price of comparable)		
Settlement or Closing Fees:		
<b>TOTALS:</b>		

**AMOUNTS DUE UNDER THIS CLAIM**

Increased Interest Payment (See attached worksheet)	Work Class Code _____	\$ _____
Closing Costs (Documentation attached)	Work Class Code _____	\$ _____
Total Amount Due:		\$ _____

I certify that all information submitted herewith or included herein is true, correct and complete, that the above named displacee has purchased a dwelling which is decent, safe and sanitary and the displacee is eligible for the payment requested.

Date: \_\_\_\_\_ Right of Way Agent: \_\_\_\_\_

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I further certify that I have examined this claim and the substantiating documentation and found it to conform to the applicable provisions of State law and operating procedures.

Date: \_\_\_\_\_ Right-of-Way Agent Supervisor: \_\_\_\_\_  
 Print Name/Signature

Date: \_\_\_\_\_ Administrator, Bureau of Right-of-Way: \_\_\_\_\_  
 Print Name/Signature

**Sample Residential Claim Form For Moving Allowance**

<p><b>CLAIM FOR MOVING ALLOWANCE - RESIDENTIAL</b></p> <p>X Owner  <input type="checkbox"/> Tenant</p>	<p>Project Name: _____          State Project #: _____          Federal #: _____          Landfile-Parcel #: _____          Work Class Code: _____          Date: _____          Right-of-Way Agent: _____</p>														
<p>Full Name and Address of Owner</p> <p>Name: _____          Street: _____          City: _____          State: _____ Zip: _____          Telephone: _____</p>	<p>Address Moving To</p> <p>Name: _____          Street: _____          City: _____          State: _____ Zip: _____          Telephone: _____</p>														
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Controlling Dates</th> <th style="width: 10%;">Date</th> <th style="width: 60%;">Claim Based On</th> </tr> </thead> <tbody> <tr> <td>Date claimant moved into displacement dwelling.</td> <td></td> <td rowspan="5"> <input type="checkbox"/> Fixed Moving Schedule See Schedule Below            Actual Moving Expenses Plus Storage If Applicable   <b>Amount Due Under This Claim:</b>            \$ _____         </td> </tr> <tr> <td>First written offer for displacement dwelling.</td> <td></td> </tr> <tr> <td>Title taken by State on displacement dwelling.</td> <td></td> </tr> <tr> <td>Closing date for replacement dwelling.</td> <td></td> </tr> <tr> <td>Move-in date - replacement dwelling.</td> <td></td> </tr> </tbody> </table>	Controlling Dates	Date	Claim Based On	Date claimant moved into displacement dwelling.		<input type="checkbox"/> Fixed Moving Schedule See Schedule Below Actual Moving Expenses Plus Storage If Applicable  <b>Amount Due Under This Claim:</b> \$ _____	First written offer for displacement dwelling.		Title taken by State on displacement dwelling.		Closing date for replacement dwelling.		Move-in date - replacement dwelling.		<p><b>Make check payable to:</b></p> <p>Name: _____          Street: _____          City: _____          State: _____ Zip: _____          Telephone: _____</p> <p>Moving Payment Requested \$ _____          Actual Storage Payments \$ _____          Monthly Storage \$ _____ # _____ Months: _____          Months Covering: _____          Utility Reconnect _____  <b>Total Payment for This Claim \$ _____</b></p>
Controlling Dates	Date	Claim Based On													
Date claimant moved into displacement dwelling.		<input type="checkbox"/> Fixed Moving Schedule See Schedule Below Actual Moving Expenses Plus Storage If Applicable  <b>Amount Due Under This Claim:</b> \$ _____													
First written offer for displacement dwelling.															
Title taken by State on displacement dwelling.															
Closing date for replacement dwelling.															
Move-in date - replacement dwelling.															

Fixed Moving Schedule  
 See also 49 CFR 24.302  
 Number of Areas

1	2	3	4	5	6	7	8	Each Add'l Area
\$500	\$700	\$900	\$1100	\$1300	\$1500	\$1700	\$1900	\$200

I certify that all personal property has been removed from the real property and the public project. The undersigned hereby requests payment for moving expenses in vacating the property in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes. The undersigned agrees to accept the above sum as payment in full.

Date: \_\_\_\_\_ Claimant Signature (s): \_\_\_\_\_  
 I certify the above facts to be true to the best of my knowledge and belief. The counted rooms were verified, personal property has been removed and payment of the amount set forth is recommended.

Date: \_\_\_\_\_ Chief Right-of-Way Agent: \_\_\_\_\_  
 Approved for Payment \_\_\_\_\_  
 Date: \_\_\_\_\_ Administrator, Bureau of Right-of-Way \_\_\_\_\_  
 Print Name/Signature \_\_\_\_\_



**Sample Residential Tenants Checklist**

**RESIDENTIAL  
 TENANTS  
 CHECK LIST**

Project: \_\_\_\_\_  
 State #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

The check list below is meant only as a guide to help you understand the booklet entitled "PUBLIC HIGHWAYS AND YOUR PROPERTY".

Please put a check mark next to each category when covered by your Right-of-Way Agent.

MOVING COST REIMBURSEMENT (Pages 16-17)

- I Commercial Move  
 {Federal Regulation 24.301}
  - \* Quote must be reviewed for approval before hiring a mover
  
- II Self-Move  
 {Federal Regulation 24.301}
  - a) Actual Moving Cost
    - \* 50 mile radius
    - \* Packing and unpacking
    - \* Replacement insurance
    - \* Utility reconnects
    - \* Reasonable
  
  - b) Fixed Schedule Moving Cost  
 {Federal Regulation 24.302}
    - \* Based on room count
    - \* Lump sum - you do all

COMPARABLE UNIT DETERMINATION (Pages. 17-18)

- \* Functionally Equivalent
- \* Adequate in size to accommodate
- \* Available on private market at time of offering
- \* Within financial means
- \* Decent, Safe, and Sanitary and in concurrence with Local Code and Federal Regulations. The more stringent rule applies.
- \* Establishing Economic Rent when tenant paying little or no rent

**Sample Rental Assistance Form**

RENTAL ASSISTANCE (Pages. 22-23)

- \* In occupancy at least 90 days preceding initiation of negotiations
- \* Not to exceed \$5,250.00
- \* Based on a 42 month period
- \* Must occupy within One (1) year
  
- \* Utility charges included in rent (heat, lights, water, sewer)
- \* Must be in occupancy when offer to purchase property is made to owner.
- \* Must "Spend to get"

DOWN PAYMENT ASSISTANCE (Pages. 23-24)

- \* In occupancy at least 90 days preceding initiation of negotiations
- \* Combined down payment including incidental expenses
- \* Must "Spend to get"
- \* Must purchase and occupy within 1 year

RELOCATION PAYMENTS ARE NOT CONSIDERED REPORTABLE AS INCOME  
THEY WILL HAVE NO ADVERSE EFFECT ON (Page 29)  
 {Federal Regulation 24.209}

- \* Social Security Eligibility
- \* Welfare Eligibility
- \* Income Taxes

YOUR RIGHT OF APPEAL (Page 29)

- \* Appeals must be made within 90 days of determination
- \* Appeal in writing to the Commissioner
- \* Hearings Examiner
- \* Transportation Appeals Board
- \* Supreme Court

My Right-of-Way Agent has discussed the above check list, the 90 Day and actual Vacating Notices.

\_\_\_\_\_

Tenant's Name

\_\_\_\_\_

Date

\_\_\_\_\_

Tenant's Name

\_\_\_\_\_

Date



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

Sample 90-Day Notice for Tenants

Re: - Parcel No.  
Tenants - Ninety (90) Day Notice

Dear \_\_\_\_\_:

I met with you on (date) \_\_\_\_\_, to discuss relocation benefits for which you may be eligible to receive under the Uniform Relocation Act.

This ninety (90) day notice is being sent to inform you that the earliest date by which you may be required to move is (date) \_\_\_\_\_. After the State has received title to the property you occupy, I will forward you another letter specifying an actual vacating date.

The State has determined you are eligible for up to \_\_\_\_\_ (\$ \_\_\_\_\_) dollars as a rental supplement payment. The comparable unit that was used to establish this payment is located at (Physical Address) \_\_\_\_\_. In addition to the rental supplement payment, you may be eligible for moving costs.

Upon making final arrangements to vacate the property you occupy, it is important that you notify me immediately so the property can be serviced, secured and utility responsibility transferred to the State of New Hampshire. All personal items need to be removed from the property by the vacate date.

Please be aware you shall not remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required.

The Department's relocation staff will continue to assist you through this difficult period of moving. If you have any questions, you may contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

CERTIFIED MAIL

Cc: \_\_\_\_\_, Chief Right-of-Way Agent



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

**Sample Actual Vacating Notice for Tenants**

Re: - Parcel No.  
Tenants – Actual Vacating Notice

Dear \_\_\_\_\_:

In my Ninety (90) Day Notice letter dated \_\_\_\_\_, I indicated you would receive a letter specifying a vacating date after the State received title to the property you occupy. Please consider this your vacating notice.

The State acquired title to the property you occupy on \_\_\_\_\_. Your official vacating date is (date) \_\_\_\_\_. The Department will continue to work with you and offer assistance until you have successfully moved.

If your former landlord is holding a security deposit on your rental unit, you may request for the deposit back at this time.

Once again, I would like to remind you to notify me prior to vacating the property you occupy so the property can be serviced and secured immediately after you vacate the premises. Please check with me to determine which utilities must not be turned off.

I would also like to remind you that you shall not remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required. If you have a question regarding an item's status, please consult with me.

Again, if you have further questions or if the Department may assist you in any way through this difficult period, please do not hesitate to contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

CERTIFIED MAIL

cc: \_\_\_\_\_, Property Management

\_\_\_\_\_, Chief Right-of-Way Agent

Project Name:





Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Tenant Rent Supplement Payment Claim Form**

CLAIM FOR

State #: \_\_\_\_\_

TENANT RSP

Parcel #: \_\_\_\_\_

Date: \_\_\_\_\_

Right-of-Way Agent: \_\_\_\_\_

Displacee's Name and Address		Comparable's Address:	
Name: _____	_____	Street: _____	_____
Street: _____	_____	City: _____	_____
City: _____	_____	State: _____	Zip: _____
State: _____	Zip: _____	Telephone: _____	_____
Telephone: _____	_____	_____	_____

Type of Occupancy Covered by This Claim

<input type="checkbox"/> Dormitory/Sleeping Room	<input type="checkbox"/> Homeowner Occupant
<input type="checkbox"/> Dwelling Unit Tenant	<input type="checkbox"/> Subsequent Occupant
<input type="checkbox"/> Mobile Home Park Tenant	<input type="checkbox"/> Other: _____

**Computation for Claim for Rent Supplement Payment**

A. Comparable's rent amount. (Comparable's chosen by Displacee)	\$ _____
B. Comparable's rent amount. (Comparable's chosen by Agency)	\$ _____
C. Subject's current rent including utilities.	\$ _____
D. Computed amount of monthly eligibility {(lesser of A or B) minus C}	\$ _____
E. Rent supplement payment: (D x 42 months)	\$ _____

**Computation for Claim for Purchase Down Payment**  
 (Purchase down payment is equal to the lesser of F or G)

F. Maximum amount allowed for purchase down payment. (Taken for E above)	\$ _____
G. Amount required for down payment of new dwelling.	\$ _____

Make check payable to: Name: _____	Total Payment for this Claim: \$ _____
---------------------------------------	---

I, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures

\_\_\_\_\_  
 Claimant's Signature Date  
 I certify that to the best of my knowledge that the above expenses have been incurred and are supported by the attached documentation.

\_\_\_\_\_  
 Right-of-Way Agent Date

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I also certify that I have examined this claim and have found it to conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

\_\_\_\_\_  
 Chief Right-of-Way Agent Date Administrator, Bureau of Right-of-Way Date



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Business Validation And Displacee Data Form**

**BUSINESS VALIDATION  
 AND  
 DISPLACEE DATA**

PROJECT: \_\_\_\_\_  
 STATE #: \_\_\_\_\_  
 PARCEL #: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

<u>OWNER OF RECORD</u>	<u>OWNER OF BUSINESS-FARM-NPO</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, _____	City, State, _____
Zip: _____	Zip: _____
Telephone #: _____	Telephone #: _____

<u>STATUS OF BUSINESS</u>	<u>NATURE OF BUSINESS</u>
<input type="checkbox"/> Sole proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Non Profit Organization	_____ _____ _____ _____

**PERTINENT INFORMATION**

<b>Do you presently have a mortgage</b>	<b>Approximate balance</b>
_____	_____
<b>Are you a tenant</b>	<b>Monthly rental payment</b>
_____	_____
<b>Do you have a lease</b>	<b>Length/Term of Lease</b>
_____	_____
<b>How long at your present location</b>	_____
_____	_____
<b>How many people do you employ</b>	_____
_____	_____

Special considerations: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I/WE certify that the above information provided by me is true to the best of my/our knowledge.

_____	_____
Date	Displacee
_____	_____
Date	Displacee



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Business Moving Expenses Claim Form**

**CLAIM FOR BUSINESS MOVING EXPENSES**

Project Name:	_____
State Project #:	_____
Parcel #:	_____
Date:	_____
Right-of-Way Agent:	_____

Full Name Address of Business, Farm, Non-profit Organization Being Displaced:

Name: \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

Address Moved to:

Name: \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_

Make check payable to:

Name: \_\_\_\_\_

Make check in the amount of:

\$ \_\_\_\_\_

Amount of Claim:  Actual  Self Move

Searching Expense: \$ \_\_\_\_\_  
 Storage if Necessary  
 # of Months: \_\_\_\_\_ Per Month \$ \_\_\_\_\_  
 Storage Total: \$ \_\_\_\_\_

Payment of This Claim is Requested in the Amount of \$ \_\_\_\_\_

The undersigned hereby requests payment for moving expenses in vacating the property in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes.

Date: \_\_\_\_\_ Claimant Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Claimant Signature: \_\_\_\_\_

I certify that to the best of my knowledge the above expenses have been incurred and are supported by the attached documentation.

Date: \_\_\_\_\_ Right-of-Way Agent: \_\_\_\_\_

Date: \_\_\_\_\_ Chief Right-of-Way Agent: \_\_\_\_\_

Date: \_\_\_\_\_ Administrator, Bureau of Right-of-Way: \_\_\_\_\_



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Reestablishment Payment Claim Form**

**CLAIM FOR REESTABLISHMENT PAYMENT**

- Partial Payment
- Payment in Full

Project Name: \_\_\_\_\_  
 State Project #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

Full Name and Address of Business, Farm, Non-profit Organization Being Displaced: \_\_\_\_\_  
 Name: \_\_\_\_\_ Street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address Moved to: \_\_\_\_\_  
 Name: \_\_\_\_\_ Street: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone: \_\_\_\_\_ Contact: \_\_\_\_\_

**Make check payable to:**

Name: \_\_\_\_\_

**Make check in the amount of:**

\$ \_\_\_\_\_

Reimbursable Item	Amount	Reimbursable Item	Amount
A. To Meet Code	_____	G. Professional Services	_____
B. Modify to Accommodate.	_____	H. Increased Operating Expense	_____
C. Signage	_____	I. Other	_____
D. Redecoration	_____	<b>Total:</b>	_____
E. Licenses, Fees & Permits	_____		
F. Advertising	_____		

The undersigned hereby requests payment of Reestablishment expenses in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes. The undersigned agrees to accept the sum of \$ \_\_\_\_\_ in full payment of Reestablishment expenses based on the above items.

Date: \_\_\_\_\_ Claimant Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Claimant Signature: \_\_\_\_\_

I certify that to the best of my knowledge the above expenses have been incurred and are supported by the attached documentation.

Date: \_\_\_\_\_ Right-of-Way Agent: \_\_\_\_\_  
 Print Name/Signature

Date: \_\_\_\_\_ Chief Right-of-Way Agent: \_\_\_\_\_  
 Print Name/Signature

Date: \_\_\_\_\_ Administrator, Bureau of Right-of-Way: \_\_\_\_\_  
 Print Name/Signature





Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Business or Farm "In-Lieu" of Actual Moving and Related Expenses Claim Form**

**CLAIM FOR IN LIEU OF  
 ACTUAL MOVING AND RELATED EXPENSES  
 BUSINESS OR FARM**

- Business
- Farm

Project Name: \_\_\_\_\_  
 State Project #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

Full Name and Address of Business or Farm: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

Address Moved to: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Street: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

Make check payable to: Name: \_\_\_\_\_  
 Make check in the amount of: \$ \_\_\_\_\_

Net Earnings Based on the Two Years Prior to Acquisition  
 (See attached documentation)

_____	_____	Payment of this claim is requested in the amount of:
Year	Year	
_____	0	
\$ Net Earnings	+ \$ Net Earnings	= \$ _____ : 2 - \$ _____

I certify that I am the owner or authorized representative of the business or farm operation named above; that no other claim for reimbursement or compensation for payment of moving expense or in lieu of moving expenses has been submitted, or payment received, or will be accepted from any other source, by me on behalf of said business or farm operation. Also, all personal property has been moved from the real property and the public project. I understand this claim for payment is based on information previously submitted to the State and the attached documentation. I also certify that all information is true, correct and complete and is part of this claim.

Date: \_\_\_\_\_ Claimant Signature/s: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Title: \_\_\_\_\_

I certify that to the best of my knowledge the above information is correct based on the supporting attached documentation.

Date: \_\_\_\_\_ Right-of-Way Agent: \_\_\_\_\_  
Print Name/Signature

I certify that I have examined this claim, the substantiating documentation and found it to conform to the applicable provisions of State law and operating procedures of the New Hampshire Department of Transportation.



Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018

**Sample Non-Profit Organization Fixed Payment Claim Form**

**CLAIM FOR FIXED  
 PAYMENT  
 NON-PROFIT  
 ORGANIZATION**

Date: \_\_\_\_\_ Chief Right-of-Way Agent: \_\_\_\_\_  
 Approved for Payment: \_\_\_\_\_

Date: \_\_\_\_\_ Administrator, Bureau of Right-of-Way: \_\_\_\_\_

Project Name: \_\_\_\_\_  
 State Project #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

Full Name and Address of Non-profit Organization:		Address Moved to:	
Name: _____	Street: _____	Street: _____	City: _____
City: _____	State: _____ Zip: _____	City: _____	State: _____ Zip: _____
Telephone: _____	Contact: _____	Telephone: _____	Contact: _____

**Make check payable to:** Name: \_\_\_\_\_ **Make check in the amount of:** \$ \_\_\_\_\_

Annual Gross Revenue Less Administrative Expense for the Two Twelve Month Periods Prior to Acquisition  
 (See attached documentation)

\$ _____	Less	\$ _____	= \$ _____
Gross Revenue		Admin. Expense	
\$ _____	Less	\$ _____	= \$ _____
Gross Revenue		Total Gross Revenue	÷ 2 = \$ _____

I certify that I am the owner or authorized representative of the business or farm operation named above; that no other claim for reimbursement or compensation for payment of moving expense or in lieu of moving expenses has been submitted, or payment received, or will be accepted from any other source, by me on behalf of said business or farm operation. Also, all personal property has been moved from the real property and the public project. I understand this claim for payment is based on information previously submitted to the State and the attached documentation. I also certify that all information is true, correct and complete and is part of this claim.

Date: \_\_\_\_\_ Claimant Signature/s: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Title: \_\_\_\_\_

Sample Governor & Council Agenda

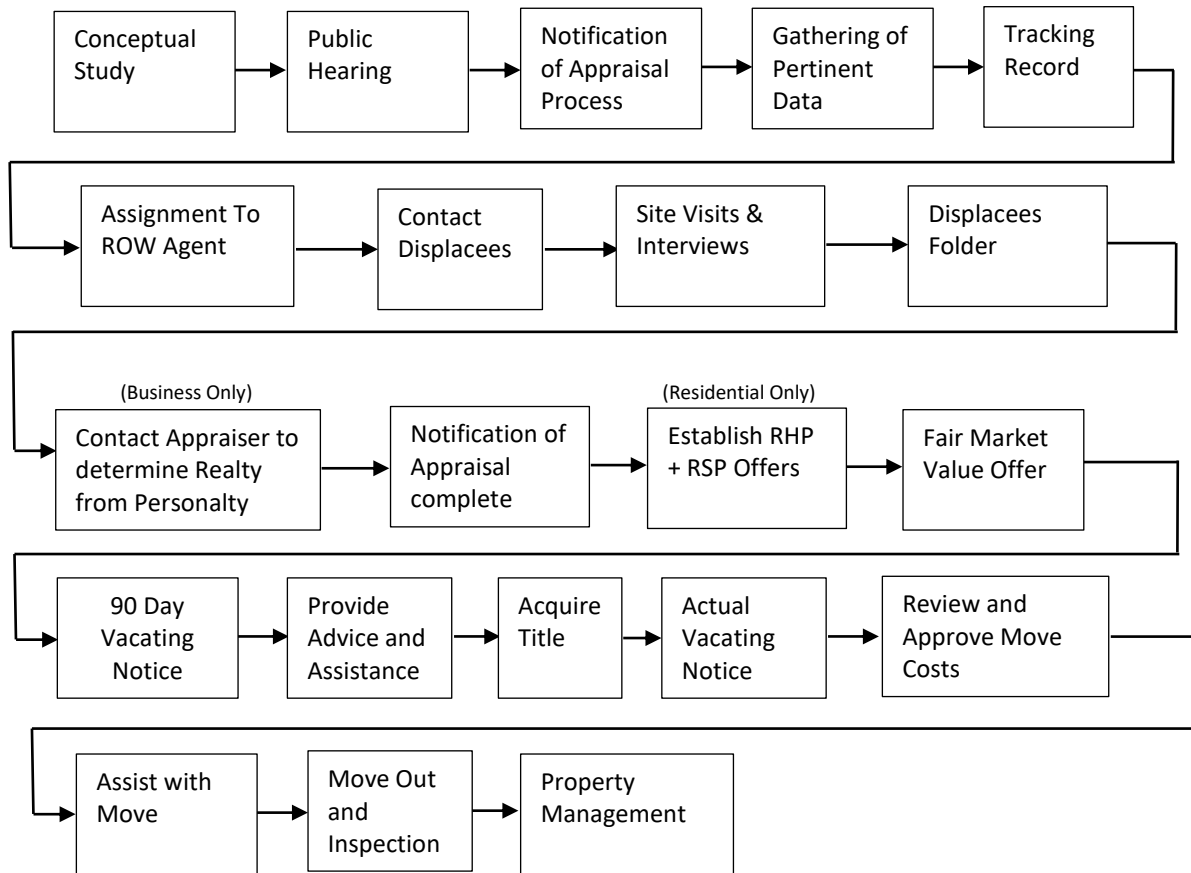
*W/LC  
 4/2/98*

GOVERNOR AND COUNCIL AGENDA

April 1, 1998

- Approved Item #72 Income and Expenditures Increase Authorization - Fuel Dist  
 Ltr. dated February 3, 1998 (\$15,000)
- Approved Item #73 Transfer Funds Between Classes & Turnpike Earnings  
 Ltr. dated February 20, 1998 (\$350,900)
- Approved Item #74 Nashua-Hudson, 10625-B, Cont. Approval, Sagamore Bridge  
 Ltr. dated March 12, 1998 (R.S. Audley-#50032)
- Approved Item #75 Albany, 11971-B, Cont. Approval, Kancamagus Hwy. Walls  
 Ltr. dated March 9, 1998 (Busby Const. #41836)
- Approved Item #76 Special Statewide Bridge Design Agreement, 12936  
 Ltr. dated February 25, 1998 (McFarland-Johnson-#23114)
- Approved Item #77 Haverhill-Bath, 10340, Statewide Historic RR Context Study  
 Ltr. dated February 25, 1998 (R. Stuart Wallace-#45375)
- Approved Item #78 Agreement Approval, Transit Coordination Project  
 Ltr. dated March 3, 1998 (COAST-#22754)
- Approved Item #79 Special Statewide, 12935, Bridge Design Agreement  
 Ltr. dated February 25, 1998 (Clough, Harbour-#01598)
- Approved Item #80 Chesterfield, NH-Brattleboro, VT, 11999, NH Rte. 9 Bridge  
 Ltr. dated March 16, 1998 (State of VT)
- Approved Item #81 Conway, Leasing of State Owned Railroad Land  
 Ltr. dated February 26, 1998 (Lawrence Locke)
- Approved Item #82 Windham, Sale of State Owned Property  
 Ltr. dated March 10, 1998 (Edward McSweeney)
- Approved Item #83 Fremont, Authorization for RR Quij Claim Release  
 Ltr. dated March 2, 1998
- Approved Item #84 Merrimack, Disposal of Old Route 3 Highway Easement  
 Ltr. dated March 16, 1998 (Nash, Watson)

**Relocation Flow Chart**



### Sample Approval Letter for Contemplated Awards



LEON S. KENISON  
COMMISSIONER

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION

Bureau of Right-of-Way

March 4, 1998

Her Excellency, Jeanne Shaheen, Governor  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

Re: Blanket Approval for Contemplated Awards  
for Amounts less than \$5,000

#### REQUESTED RESOLUTION

AUTHORIZED, the Commissioner of the New Hampshire Department of Transportation, or designee, to approve the payment of contemplated award submittals in amounts less than five-thousand (\$5,000.00) dollars.

#### EXPLANATION

The Department of Transportation acquires property and property rights that are needed to clear the right-of-way for the construction of transportation improvement projects. In addition, relocation assistance benefits are provided to those individuals, businesses, or non-profit organizations that are displaced as a result of transportation improvement projects. These acquisitions and benefits are provided in accordance with RSA 230 and RSA 231 and are subsequently submitted to the Governor and Executive Council for final authorization of each payment as listed in the Contemplated Awards compiled by the Department. The present approval process causes a delay in payment of between six (6) to eight (8) weeks before the owner or claimant is able to receive their payment.

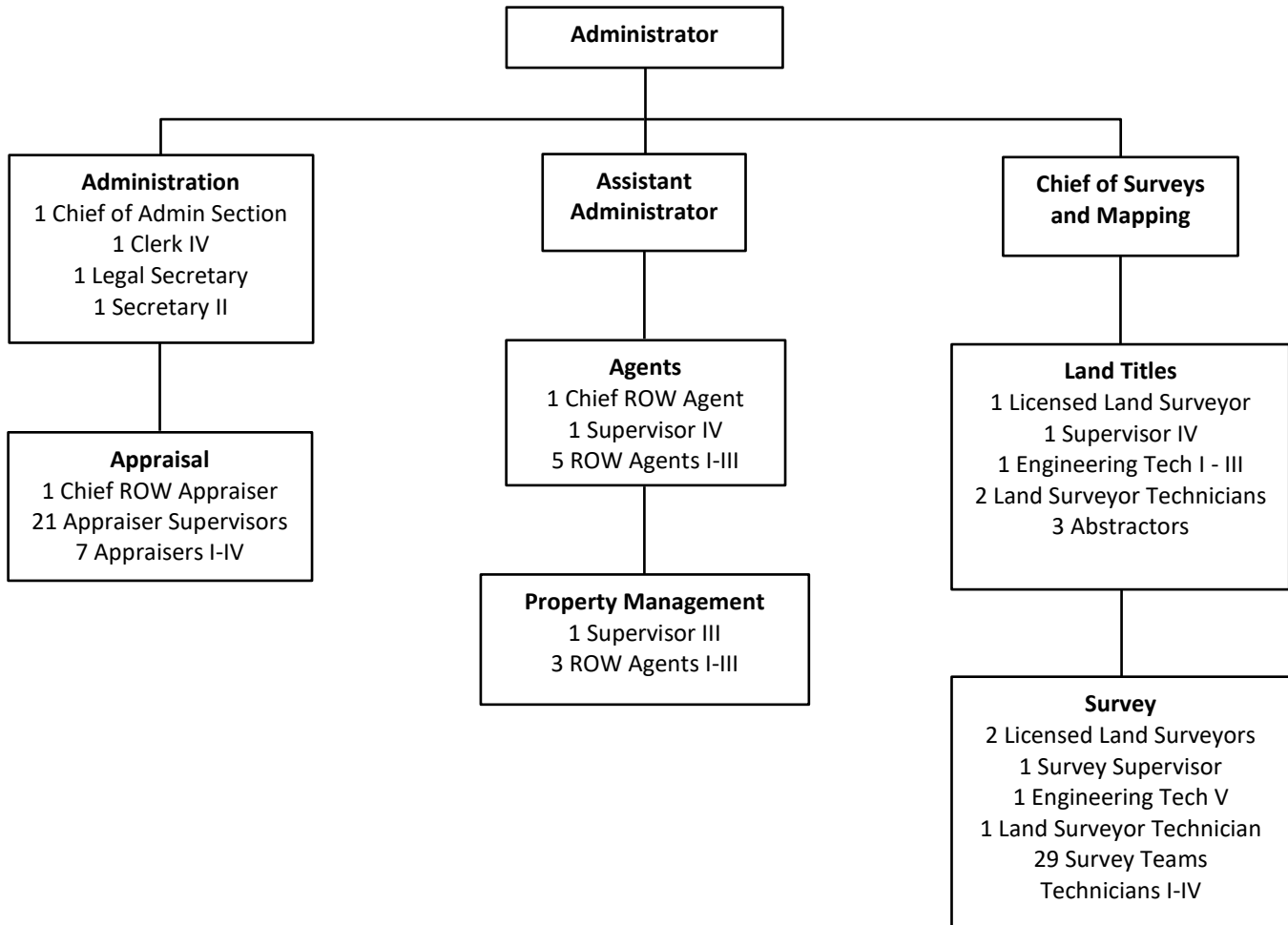
Many of these payments are either to property owners as compensation for the impact of the project, or, to moving companies, estimators, storage companies, displaced, etc. as reimbursement for relocation assistance benefits for which they are eligible. These companies are often smaller privately owned businesses that may experience financial difficulty due to the delay in payment caused by the current approval process. In addition, owners that choose to perform their move themselves must now wait the six (6) to eight (8) weeks before they can receive reimbursement for their work efforts for relocating their personal property.

As part of Department's Quality Improvement efforts, the Right-of-Way Award process was studied. This review determined that over seventy-five (75%) percent of the contemplated awards submitted to the Governor and Executive Council for approval were in amounts less than five-thousand (\$5,000.00) dollars. It is felt that the present process for approval of the submitted contemplated awards causes undue delay in providing payments and benefits to those affected by the Department's transportation improvement projects. In addition, it requires additional time and work effort by the Department's staff, thereby delaying the acquisition and relocation processes. This in turn can delay the advertising and construction of the project since work cannot occur until the right-of-way is cleared.

JOHN G. MORTON BUILDING, THAZEN DRIVE, P.O. BOX 453, CONCORD, N.H. 03302-0453  
TELEPHONE: 603-271-3734 FAX: 603-271-3914 TDD ACCESS: RELAY NH 1-800-735-2161



**ROW Organizational Chart**





Date Adopted: May 20, 2019
Last Updated: December 19, 2018

Sample Donation, Acknowledgement, and Release of Agency Obligation to Appraise and Offer Just Compensation

Donation, Acknowledgement, and Release of Agency Obligation to Appraise and offer Just Compensation

PROJECT NAME:
FEDERAL PROJECT NO.:
STATE PROJECT NO.:
PARCEL NO.:
OWNER(S):

We acknowledge that we have been informed of the right to receive just compensation based upon an approved appraisal. Notwithstanding, we desire to donate the right of way (land and/or rights therein) for the project stated above and as shown on the Right of Way plan entitled, date, on file at, and release the from their obligation to provide an appraisal and offer of just compensation for the real property interests needed for the above referenced project. This donation to the and is made without coercive action of any nature.

Executed this day of, 20.

STATE OF
COUNTY OF

This instrument was acknowledged before me on the day of, 20, by [name(s) of person(s)].

Notary Public/Justice of the Peace
My commission expires:

OR IF EASEMENT IS FOR A CORPORATION USE LANGUAGE BELOW:

[TYPE COMPANY NAME HERE IN CAPS]

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEW HAMPSHIRE,

SS

A. D., 20\_\_.

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_ the undersigned officer, personally appeared, \_\_\_\_\_, who acknowledged as being the [title] \_\_\_\_\_ of [name of corp.] \_\_\_\_\_, and that as such [title] \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation as [title] \_\_\_\_\_.

IN WITNESS WHEREOF I have hereunto set my hand and seal.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My commission expires: \_\_\_\_\_



**Sample Nondiscrimination Survey Card**

**NONDISCRIMINATION SURVEY**

To all Public Hearing Attendees: This voluntary survey is being collected by the New Hampshire Department of Transportation in order to comply with Title VI of the Civil Rights Act of 1964, related statutes and Executive Orders with regard to "Nondiscrimination in Federally Assisted Programs." We ask that you take a few moments to complete the following questions. The demographic data that you provide will enable the Department to identify impacted residents and communities affected by the Federal-aid Highway Program.

Male  Female

	YES	NO
Is your household income less than \$21,200 per year?	<input type="checkbox"/>	<input type="checkbox"/>
Are you disabled?	<input type="checkbox"/>	<input type="checkbox"/>
Are you over the age of 62?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have difficulty speaking English?	<input type="checkbox"/>	<input type="checkbox"/>

Racial/Ethnic Data: Please identify yourself with one of the racial/ethnic groups below:

White (not of Hispanic origin) <input type="checkbox"/>	Native American <input type="checkbox"/>
Black (not of Hispanic origin) <input type="checkbox"/>	Hispanic <input type="checkbox"/>
Asian or Pacific Islander <input type="checkbox"/>	Other <input type="checkbox"/>

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**Sample Owners 90-Day Checklist**

**OWNERS 90 DAY  
 CHECKLIST**

Project Name: \_\_\_\_\_  
 State #: \_\_\_\_\_  
 Parcel #: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Right-of-Way Agent: \_\_\_\_\_

The checklist below is meant only as a guide to help you understand the booklet entitled "PUBLIC HIGHWAYS AND YOUR PROPERTY".

Please put a check mark next to each category when covered by your Right-of-Way Agent.

MOVING COST REIMBURSEMENT (Page 16-17)

- I Commercial Move  
 {Federal Regulation 24.301}
  - \* Quote must be reviewed for approval before hiring a mover
  
- II Self-Move  
 {Federal Regulation 24.301}
  - a) Actual Moving Cost
    - \* 50 mile radius
    - \* Packing and unpacking
    - \* Replacement insurance
    - \* Utility reconnects
    - \* Reasonable
  
  - b) Fixed Schedule Moving Cost  
 {Federal Regulation 24.302}
    - \* Based on room count
    - \* Lump sum - you do all

REPLACEMENT HOUSING DETERMINATION  
 {Federal Regulation 24.205, 24.401, 24.403}

- \* Page 17 - Functionally equivalent
- \* Page 17 - Dwelling adequate in size to accommodate
- \* Page 17 - Available on private market at time of offer
- \* Page 18 - Decent, Safe and Sanitary and in concurrence with Local Code and Federal Regulations. The more stringent rule applies.
- \* Page 20 - Must occupy within one (1) year
- \* Page 21 - "Spend to get"

INCIDENTAL EXPENSES (Page 20)  
 {Federal Regulation 24.401(e)}

- a) Presently have a mortgage
  - \* Certain closing costs
  - \* Usual and ordinary charges
  - \* Required by bank
  - \* Points based on existing mortgage
  - \* Tax Stamps based on comparable
- b) Without a current mortgage
  - \* Legal
  - \* Recording

INCREASED INTEREST PAYMENTS (Page 21)  
 {Federal Regulation 24.401(d)}

- \* Based on existing unpaid mortgage or your new mortgage amount (whichever is less)
- \* Based on remaining term of existing mortgage or the term of your new mortgage (whichever is shorter)
- \* Based on prevailing rates currently being charged

RELOCATION PAYMENTS ARE NOT CONSIDERED REPORTABLE AS INCOME  
THEY WILL HAVE NO ADVERSE EFFECT ON (Page 28)  
 {Federal Regulation 24.209}

- \* Social Security Eligibility
- \* Welfare Eligibility
- \* Income Taxes

YOUR RIGHT OF APPEAL (Page 29)

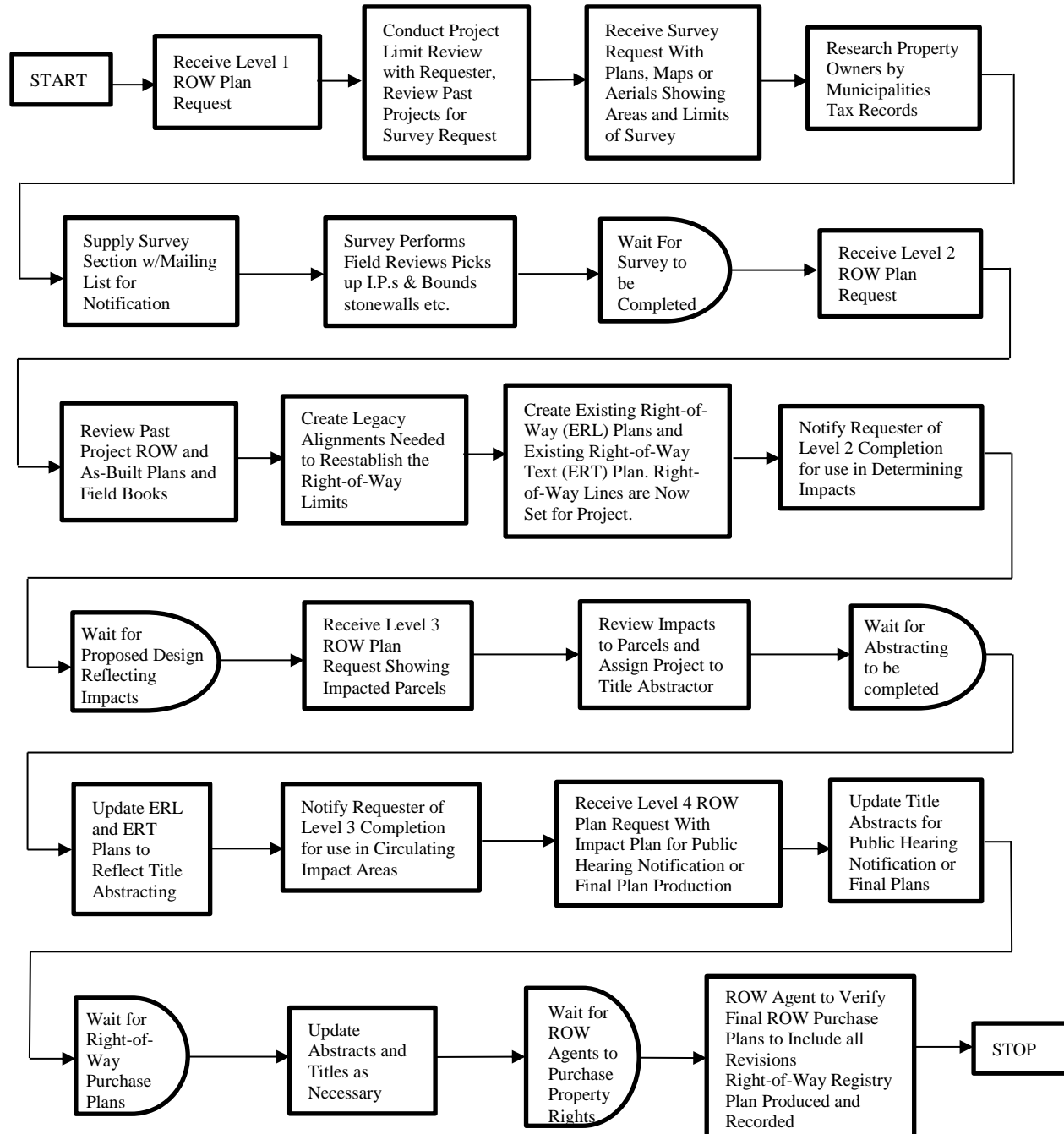
- \* Appeals must be made within 90 days of determination
- \* Appeal in writing to the Commissioner
- \* Hearings Examiner
- \* Transportation Appeals Board
- \* Supreme Court

My Right-of-Way Agent has discussed the above checklist, the 90-Day and actual vacating notices.

\_\_\_\_\_ Owner's Name \_\_\_\_\_ Date

\_\_\_\_\_ Owner's Name \_\_\_\_\_ Date

**Survey Process Flowchart**









Date Adopted: May 20, 2019  
 Last Updated: December 19, 2018


Continues on opposite side  
**R/W Acquired/ Possession Not Available**

The Department of Transportation has legal title to the following properties, however, the structures and areas indicated on the Right-of-Way Plans are reserved until the indicated dated.

Parcels	Name	Reserve Date

**R/W Acquired/Residential Structures Still Occupied**

The Department of Transportation has legal title to the following properties, however, the residents have not vacated.

Parcels	Name	Scheduled Vacates

The New Hampshire Department of Transportation affirms that it is in the public interest to proceed with construction of this project. The cause for the delay in clearing the R/W, and the measures taken to protect the rights of those temporarily remaining on the project are as follows:

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All families and individuals relocated from this project have been/will be offered decent, safe and sanitary housing, as defined in 49 C.F.R Part 24. All parties receiving replacement housing payments will be/have been relocated to DS&S housing. Relocation procedures used on this project conform to the standards established by Federal regulations.

Administrator Bureau of Right-of-Way \_\_\_\_\_ Date  
 Assistant Administrator, Bureau of Right-of-Way



Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

Sample Municipally Managed Right-of-Way Project Certificate

RIGHT-OF-WAY CERTIFICATE

For

Municipally Managed Projects

Project Name: \_\_\_\_\_

State Project No. \_\_\_\_\_

Federal Project No: \_\_\_\_\_

All work within existing rights-of-way and no additional acquisitions or relocations were necessary for this project or;

All acquisitions and easements acquired as part of this project are listed below:

Total number of parcels impacted: \_\_\_\_\_

Number of acquisitions acquired by donation: \_\_\_\_\_

Number of acquisitions acquired by permanent/temporary easement: \_\_\_\_\_

Number of Acquisitions acquired by fee: \_\_\_\_\_

Number of Acquisitions acquired via condemnation: \_\_\_\_\_

Total Cost of property rights acquired \$ \_\_\_\_\_

Were relocation claims paid as part of this project:  YES  NO

If yes, complete relocation information on Page 2.

**Relocation Information**

**Residential**

	Owners	+ Tenants	= Total
Number of Displacees	_____	_____	_____
Number of Relocation Housing Payments	_____	Total Spent \$ _____	
Number of Rent Supplement Payments	_____	Total Spent \$ _____	
Number of Moving Payments	Actual	Scheduled	Total Spent \$ _____

**Business**

	Owners	+ Tenants	= Total
Number of Displacees	_____	_____	_____
Number of Moving Payments	_____	Total Spent \$ _____	
Number of RE-establish Payments	_____	Total Spent \$ _____	
Number of In Lieu of	_____	Total Spent \$ _____	
Number of Misc. Monies (i.e. fences, lights, signs, etc.)	_____	Total Spent \$ _____	

The City/Town of \_\_\_\_\_, State of New Hampshire hereby certifies the right to occupy and use all the right-of-way necessary for the above-referenced project has been acquired in accordance with the Uniform Act 49 CFR 24 and 23 CFR 710.

\_\_\_\_\_  
 Town/City Manager  
 Chairman of Selectmen

\_\_\_\_\_  
 Date





Date Adopted: May 20, 2019  
Last Updated: December 19, 2018

### Relocation Justification Claim Form

#### RELOCATION CLAIM JUSTIFICATION

Project Name: \_\_\_\_\_  
State #: \_\_\_\_\_  
Parcel #: \_\_\_\_\_  
Date: \_\_\_\_\_  
Right-of-Way Agent: \_\_\_\_\_

Name and Address		New Address (if applicable)	
Name:	_____	Street:	N/A
Street:	_____	City:	_____
City:	_____	State:	_____
State:	_____ Zip: _____	Zip:	_____
Telephone:	_____	Telephone:	_____

In accordance with Federal Regulation 49 CFR 24:301 (e) and (g) (3) a reimbursement in the amount of \$ based on the lower of 2 estimates is being requested by for the relocation of their fence, currently located in the States Right-of-Way, to another location out of the Right-of-Way and proposed work area on their property located at Road in Town.

EXAMINABLE

Right-of-Way Agent: \_\_\_\_\_

### Property Management Regions Map

