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Right-of-Way

Introduction to Right-of-Way
Requirements and the Uniform Act
www.fhwa.dot.gov/federal-aidessentials

All project right-of-way requirements must be met when Federal-aid is used



If a local public agency needs to acquire vacant property, or property improved with a home or business to construct a Federal-aid project, the local public agency (LPA) must follow a process for acquiring that property. Federal right-of-way requirements apply if Federal dollars are used to fund any phase of the project. Failing to meet the right-of-way requirements can jeopardize your project from being eligible to receive Federal funds. For this reason, it's important to know the Federal requirements and when they apply.

When an agency acquires property for a Federal-aid project, right-of-way requirements are in place to provide benefits, protection, and payment of just compensation. When a project displaces an individual, family, business, farm or non-profit organization, additional services and payments are required.



The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, otherwise known as the Uniform Act, is the primary, but not exclusive, law for right-of-way related acquisition and relocation activities on Federal-aid projects. The Uniform Act establishes the requirements and procedures that you, as an

LPA, must follow when Federal dollars are used to fund a project.

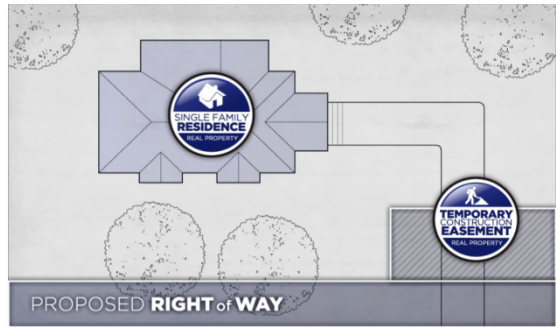
The Uniform Act consists of three titles or parts:

- Title I, the General Provisions, contains definitions and eligibility criteria for displaced persons.
- Title II addresses relocation assistance. This part contains housing payments for owners and tenants and assures that displaced persons are provided with comparable replacement housing prior to displacement. This section also covers moving and related expenses, as well as relocation planning and advisory services.
- Title III establishes the policy and requirements for acquiring property on Federal-aid projects. In this section, standards are set for appraisals, offers, negotiations, payment, possession, settlement, and other equitable considerations.



The Uniform Act and right-of-way requirements apply any time an agency seeks to acquire real property to make way for the construction of a Federal-aid project. Real property is a term that is used to describe land or improvements to land, fee interests, easements, air or access rights, or the rights to control the use of land, such as leases.





For example, an agency might ask a property owner to convey a temporary or permanent easement in order to construct a project. When agencies acquire temporary or permanent easements from a property owner, that agency is acquiring real property interests, which is considered right-of-way. Because this is a Federal-aid project, the Uniform Act and right-of-way requirements would apply.

In order to comply with right-of-way-related requirements on Federal-aid projects, you must understand when to follow the requirements.

The Uniform Act requirements apply:

- Any time real property or interests in real property is required for a project and the agency chooses to use Federal-aid funds in any phase of the project.
- Any time people or businesses are displaced by a project and the agency chooses to use Federal funds for any phase of that project.



These requirements must not be overlooked in a situation where a project does not use Federal funding until the construction phase. For example, many agencies use local money to fund the design and right-of-

way phases of a project. Upon reaching the construction phase of the project, a request for Federal assistance is made. The project would be eligible for Federal funds provided the agency complied with the requirements of the Uniform Act during the right-of-way phase of the project.

Now that we understand when right-of-way requirements are applicable, let's review the right-of-way procedures that an agency needs to follow. These procedures ultimately determine just compensation.



If it is determined that real property is needed to construct the project, the appropriate right-of-way procedures should be followed. Here is an overview of the primary steps an agency must follow to meet the requirements of the Uniform Act:

First, you must determine the fair market value of the property being acquired. Next, you must offer just compensation and negotiate the acquisition of the property or property interests. Finally, after acquiring the property, the agency must provide relocation assistance to those who are displaced.

If all attempts to negotiate an agreement to acquire property fail, it may be necessary for your agency to exercise the power of eminent domain. Property acquired through eminent domain means the government uses its power to acquire private property for a public use. Each State has specific laws governing condemnation procedures. Make sure you are familiar with your State's requirements.

The Uniform Act is the primary law for right-of-way related acquisition and relocation activities on federally assisted projects. Right-of-way requirements are applicable if an agency chooses to accept Federal funds for any phase of a project that acquires real property or displaces people or businesses. State departments of transportation play a vital role in the right-of-way process on Federal-aid projects, and they are available to provide assistance when you have questions concerning right-of-way and the Uniform Act.

Additional Resources

- Link to Real Estate Acquisition Guide For Local Public Agencies
<http://www.fhwa.dot.gov/realestate/lpaguide/>
- Information on right-of-way-related topics
<http://www.fhwa.dot.gov/realestate/>
- Information covering Uniform Act regulations and guidance
<http://www.fhwa.dot.gov/realestate/ua/index.htm>
- Information covering real property acquisition for Federal-aid projects
<http://www.fhwa.dot.gov/realestate/realprop/index.html>
- Information on how to properly manage right-of-way on Federal-aid projects
<http://www.fhwa.dot.gov/realestate/polguid.htm>

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH61-11-D-00024 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

This companion resource is the script content for the video production of the same name.