

**OPERATIONS UNIT ACQUISITION SUPPORT  
CHAPTER 7**

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## OPERATIONS UNIT ACQUISITION SUPPORT

### 7.100 INTRODUCTION

The Operations Unit in Right of Way Headquarters provides support functions to the Region offices right of way acquisition program. This includes:

1. Reviewing evidences of title;
2. Determining which interests to clear;
3. Preparing all necessary documents to convey or clear interests;
4. Performing the escrow on acquisitions accurately and expeditiously to promote public confidence in the land acquisition process.

The unit also works with federal agencies in acquiring right of way over federal lands; prepares Jurisdictional Transfers; prepares documents for property management transactions in the Program Management Unit, and coordinates and manages the Management Home Purchase program for ODOT Management employees.

### 7.110 EXPLANATION OF TITLE

Title is the right, or evidence of the right, which a person has in the ownership or possession of land. Title companies issue title reports indicating the parties and interests of record affecting a property.

Title insurance insures titles to property against all recorded encumbrances which are not shown in the title policy.

### 7.120 POLICIES

The Operations Unit Acquisition Support staff shall:

1. Support the goals and project schedules of the Right of Way Section.
2. Follow all applicable state and federal laws and regulations in carrying out its functions.
3. Maintain current title information of properties being acquired.
4. Encourage the acquisition of clear title, subject to acceptable encumbrances.

5. Advise about distribution of title work among area title companies to obtain quality and timely product.

6. Prepare the conveyance and release documents accurately and within acceptable time frame.

7. Require region responsibility for: a.) ordering preliminary title reports and vesting documents; b.) requesting documents; c.) obtaining necessary information and signatures for file closing.

8. Not require possession of property until ODOT has paid the owners the agreed-upon purchase price (unless waived by the owners).

### 7.200 RESPONSIBILITIES

#### 7.210 RIGHT OF WAY OPERATIONS MANAGER

The Right of Way Operations Manager is appointed by the Right of Way Manager and is delegated the lead role in the Acquisition function. In Acquisition Support matters, the Operations Manager's responsibilities include:

1. All Section policy which impacts the Acquisition, Title/Escrow, Jurisdictional Transfers and Management Home Purchase functions;
2. Oversight and supervision of Unit staff;
3. Interaction with FHWA, other ODOT Sections, Regions, Consultants, and outside agencies concerning Unit policies.

#### 7.220 ACQUISITION/CONDEMNATION COORDINATOR

This position is a Senior Right of Way Agent who is a lead worker in the Operations Unit, reporting directly to the Operations Manager. In Acquisition matters, the responsibilities of this position include the following:

1. Respond to technical issues regarding title, closing and payments;
2. Make decisions about what encumbrances need to be cleared before acquiring real property;

3. Oversee the drafting of all legal documents required to close right of way transactions and clear title. Draft legal document language when necessary, coordinating with the DOJ General Counsel and the Operations Unit Manager as needed;
4. Schedule and assign work and provide final review of work products;
5. Mentor and train Unit staff involved in Acquisition Support activities;
6. Provide technical advice and recommend policies and procedures relating to the acquisition of right of way to the Operations Unit Manager and Right of Way Administration.

### **7.230 DOCUMENT SPECIALIST**

The Document Specialist is responsible for the preparation and production of all legal documents necessary to transfer the rights in property being acquired or conveyed by the Department of Transportation. These documents include deeds, releases, indentures, grants, contracts, leases and assignments.

### **7.240 TITLE/CLOSING SPECIALIST**

#### **As Relates To Title:**

1. May recommend when title reports are necessary, even if under \$10,000 (there are exceptions to this rule, e.g. if the file involves a bankruptcy, property is in foreclosure or is an entire take);
2. Reviews taking title "Subject To";
3. Reviews preliminary title reports (PTRs), clarifying areas of concern and presenting them to the appropriate people;;
4. Is the contact person with the Department of Justice concerning title questions and verbiage in legal documents;
5. Prepares Office Title Report (OTR) from PTR from the Information Sheet on each file;
6. Prepares Condemnation Title Report (CTR) that lists defendants for condemnation files;
7. Reviews clearance documents;
8. Answers title questions from title companies, the public, Region offices and Consultants;
9. Serves as a resource person in the preparation and execution of documents to transfer and clear title.

#### **As Relates To Closing:**

1. Reviews entire file;
2. Computes payoff/interest to clear liens;
3. Sends documents for recording;
4. Files documents with the Secretary of State;
5. Orders title insurance policies as required;
6. Determines real property tax status and prorates taxes;
7. Obtains approval signatures from the Operations Unit Manager as needed;
8. Prepares payment letters to property owners;

In addition, the Title/Closing Specialist also coordinates the ODOT Management Home Purchase Program.

### **7.250 CONDEMNATION/FEDERAL EASEMENT SPECIALIST**

In addition to the responsibilities in the Condemnation program as detailed in Chapter 8, the other support responsibilities for this position include:

1. Handle the acquisition of property rights for the Department over federal land;
2. Provide support and backup as needed to the Document Specialist.

### **7.260 CONDEMNATION/JURISDICTIONAL TRANSFER SPECIALIST**

In addition to the responsibilities in the Condemnation program as detailed in Chapter 8, the other support responsibilities for this position include:

1. Coordinate the Jurisdictional Transfer process;
2. Coordinate the Abandonment process;
3. Provide support and backup as needed to the Document Specialist.

### **7.300 PROCEDURES**

#### **7.310 DOCUMENT REQUEST**

The Title/Closing Specialist receives the document request and information sheet from the Region Right of Way Office or Consultants, reviews the PTR for title issues and determines if searches should be made for city liens, assessments, and/or Uniform Commercial Code filings. This is done 1.) To assure that all interests of record are recognized and considered or cleared in the acquisition process; and

2.) To protect the State's interest in acquired properties. The Title/Closing Specialist also relies on input from the field concerning unrecorded interests and may order supplemental title reports. The Title/Closing Specialist prepares the OTR, sends a copy to the agent and forwards the file and OTR to the Document Specialist.

The Document Specialist reviews the OTR and attached comments to determine: 1.) the nature of the documents required to clear title; 2.) parties of interest; and 3.) appropriate access control language. Necessary documents are prepared and e-mailed. The file is then sent to the Files Coordinator in the Right of Way Project Administration Unit to be returned to the shelf.

The Title/Closing Specialist's next involvement on the file occurs when:

1. File revisions are instituted or a supplemental title report is received; or
2. A Final Report packet on the file is submitted to the Title/Closing Specialist; or
3. A Recommendation for Condemnation is directed to Title/Closing Specialist.

### **7.320 FINAL REPORT/CLOSING**

The Final Report Packet received from the Region is attached to the file by the Receptionist and forwarded to the appropriate Title/Closing Specialist who:

1. Reviews the entire file;
2. Calculates payments to each party of interest as shown on the OTR;
3. Monitors the receipt of necessary release documents for mortgages and trust deeds;
4. Contacts the appropriate county tax/assessor office for current tax information needed to prorate real property taxes;
5. Determines payments to clear city liens and assessments;
6. Prepares payment letters;
7. Sends legal documents for recording and orders title insurance policy if necessary.
8. Withholds allowances for fencing or property cleanup obligations by the property owners. These are released when the Acquisition Agent provides written verification that the obligation has been met.

9. Updates the Right of Way Automated Information Network database (RAIN) as needed.

The Title/Closing Specialist obtains approval signature on the final report and the acceptance of conveyance documents from the Operations Unit Manager if deemed necessary, prepares instructions for the preparation of vouchers and determines the possession date. The File is then forwarded for payment processing through ODOT Financial Services. Upon receipt of checks, and the appropriate confirmation of recording by the title company when applicable, checks are mailed. RAIN entries are made on the closing screen and e-mailed to the Acquisition Agent and field support.

Upon receipt of the title insurance policy, the Title/Closing Specialist reviews it for accuracy and forwards invoices for payment of the title policy. At this time, original conveyance documents are forwarded to the Division of State Lands, per state law, and copies are forwarded to the Region and to the file. The file is then closed.

### **7.330 PROCESSING PAYMENTS**

The payment processing procedure requires:

1. Preparation of the Voucher;
2. Data entry into the ODOT TEAMS Financial database which allows for preparation of the checks and for the future issuance of 1099 tax forms when required;
3. Coding the cost distribution breakdown for federal participation.

### **7.340 STATISTICS AND REPORTS**

Pertinent information regarding acquisition of property by the Final Report/Closing process is entered into RAIN as each step occurs. This information includes: ordering and receiving the title policy; payment and possession dates.

The Acquisition/Condemnation Coordinator and the Operations Unit Manager utilize this information in preparing needed reports.

## 7.400 ACQUISITION OF FEDERAL LAND

The Operations Unit has responsibility for acquiring land or interests in land needed by ODOT when the land is owned by the federal government. This includes property rights needed for highway projects, material sources or disposal sites. The Condemnation/Federal Easement Specialist is the lead staff in this process.

### 7.410 PROCEDURES

When rights over federal lands are needed, the Condemnation/Federal Easement Specialist in the Right of Way Operations Unit sets up a new right of way file. When the federal lands are under the USDA Forest Service, The Condemnation/Federal Easement Specialist sends a copy of the plat map ((Exhibit A) to the Region Right of Way Office so they can obtain Region Forester approval of the plat map. Bureau of Land Management (BLM) plat maps only require approval by the ODOT Technical Services Manager and the Right of Way Manager. Once the needed approvals are obtained and the plat map is returned, the Condemnation/Federal Easement Specialist sends a Letter of Application along with the plat map to the appropriate office of the Federal Highway Administration. Copies of this letter and the Exhibit A are sent to the Right of Way Manager and the Region Right of Way Manager. The Application Packet to FHWA contains the following information:

1. The purpose for which the lands are to be used;
2. The estate or interest in the land required for the project (highway right of way easement; material source; temporary construction activities; etc.)
3. The Federal-aid project number or other appropriate reference;
4. The name of the federal agency exercising jurisdiction and the name of the national forest or federal district office that is in possession of the land;;
5. The plat map which shows the survey of the lands to be acquired and which acts as the legal description of the property. The map or plats are to correspond with what is addressed in the project's final environmental documents.
6. A statement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332, et seq.) and any other applicable Federal environmental laws, including the

National Historic Preservation Act (16 U.S.C. 470(f), and 23 U.S.C. 138). This is obtained by the Regional Environmental Coordinator and either sent directly to FHWA or sent to Condemnation/Federal Easement Specialist for inclusion in the application package.

7. Copies of the final environmental documents are required. The Condemnation/Federal Easement Specialist makes sure that the Region Right of Way office provides these to FHWA unless it is determined that FHWA already has extra copies or that the Federal agency exercising jurisdiction over the land has already been provided copies.

The FHWA, using materials provided in the Letter of Application and Exhibit A, contacts the federal agency involved and appropriates the right of way. FHWA then sends back a Letter of Consent to the Acquisition/Condemnation Specialist who forwards it to the Region Construction Project Manager for ODOT acceptance or rejection of the stipulations included therein.

When the Region returns the signed Letter of Consent, the Condemnation/Federal Easement Specialist prepares the deed for conveyance of the right of way which includes the approved stipulations. The deed includes a statement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C 4332, et seq.)

The Condemnation/Federal Easement Specialist then forwards the prepared conveyance document for DOJ review and approval for legal sufficiency. After DOJ approves, the conveyance document is sent to FHWA for signature by the Division Administrator. After FHWA approval, the conveyance document is finally signed by the Right of Way Manager and sent for recording. Once the recorded document is returned, the Acquisition/Federal Easement Specialist distributes copies to FHWA, the appropriate Region Manager, the Region Right of Way Manager, the Region Engineering section, and the Federal official who provided the Letter of Consent. .

When the need for the right of way or for the materials acquired no longer exists, the State must provide written notice of this situation to the FHWA and the federal agency from which the land was appropriated, and the lands or materials revert back to the control of that agency or its assigns. In notifying the federal agency, ODOT must work with

them to determine what actions, if any, are required prior to the department's relinquishment of the land or materials. The notice in a form suitable for recording shall state that the need for the lands or materials no longer exists for the purposes for which they were acquired.

The following federal agencies have special authority affecting right of way transactions, and the Right of Way Section must file its application directly with that agency:

1. Bureau of Indian Affairs: The State should submit its application directly to the Bureau of Indian Affairs for rights of way across tribal lands or individually-owned lands held in trust by the United States or encumbered by federal restrictions.
2. Army Corp of Engineers or Air Force: The State should submit its application directly to the installation commander and the appropriate District Engineer in the Department of the Army's Corps of Engineers.
3. Navy: The State should submit its application directly to the District Public Works Officer of the Naval District involved.
4. Veterans Administration: The State should submit its application directly to the Director, Veterans Administration, Washington D.C.

### **7.500 JURISDICTIONAL TRANSFERS (See ODOT Procedure ROW 10-01-01)**

When a portion of a state highway route is no longer needed for highway purposes but the need for the road remains to provide access to local property, ODOT may transfer the segment to a Local Public Agency (LPA). ODOT and the LPA enter into an agreement that outlines the terms and conditions of the transfer. A formal conveyance document, which follows the approved agreement and usually includes a reversionary clause, is prepared by ODOT, accepted by the LPA and recorded in the appropriate county.

The Condemnation/Jurisdictional Transfer Specialist is responsible for reviewing the Jurisdictional Transfer Agreements for Right of Way and coordinating the finalization of the accompanying exhibit maps and descriptions through Roadway. The Condemnation/Jurisdictional Transfer Specialist is also responsible for the completion of the documents

necessary to complete the transfer once the agreement has been signed and the terms of the agreement have been met. These documents include the Resolution Eliminating a Section of Highway from the State Highway System and Minor Amendment to the Oregon Highway Plan, the Jurisdictional Transfer Document, and, in some instances, the Highway Designation Resolution.

The State of Oregon has agreed to continue regulating outdoor advertising signs visible to roads that were on the Federal Aid Primary system as of June 1, 1991. Regulating signs includes conducting surveillance along these highways. Oversight is with the Outdoor Advertising Sign Program in the Right of Way Program Management Unit.

### **7.600 ABANDONMENTS**

When a portion of the right of way of a former state highway route is no longer needed for public road use and is not owned by the Department in fee, ODOT may abandon the property to an abutting property owner. The abandonment Document is prepared by the Acquisition/Condemnation Specialist and recorded in the appropriate county.

### **7.700 MANAGEMENT HOME PURCHASE PROGRAM**

The ODOT Management Home Purchase Program was initiated January 1, 1984. Its purpose is to:

1. Encourage the best qualified employees to apply for positions requiring relocation;
2. Eliminate the difficulty and expense of selling their home for employees promoting to a management or executive service position requiring relocation;
3. Help maintain the high professional standards expected by the public and management.

The Operations Unit Title/Closing Specialist is the Program Administrator for this program.

### **7.710 ELIGIBILITY:**

ODOT employees who, at the request of ODOT, transfer/promote to a management position which is located a minimum of 50 miles from current job headquarters and current place of residence are

eligible. Final determination of eligibility will be made by Department Administration (Personnel Office) based upon such relevant factors, as: 1. Budgetary limitations; 2. Size of applicant pool; 3. Location of new position; 4. Location of employee's home; and 5. Any other facts deemed important.

#### **7.720 PROCEDURES:**

1. The employee obtains and completes an "Eligibility Certification" form No. 73109213, an "Appraisal and Offer Request" Form No. 73109214, a Seller's Disclosure form, and a Lead Base Paint Disclosure form from the Program Administrator in Right of Way either before or after accepting a management position and returns them to the Program Coordinator.
2. The Program Administrator forwards the "Eligibility Certification" form to Personnel for verification.
3. Approved "Eligibility Certification" forms and "Appraisal and Offer Request" forms as well as the completed Seller's Disclosure and Seller's Lead Base Paint Disclosure are forwarded to the Region Right of Way Manager where the property is located.
4. The Region Manager orders a property appraisal using the ERC report format. Inspections are also to be ordered for structural condition (termites, dry rot, etc.)
5. The Region advises the Appraiser of all items that need to be corrected and the Appraisal Reviewer clearly identifies any items that need repair and incorporates them in the Review.
6. The Region Right of Way Office forwards the appraisal and all Inspection Reports to the Right of Way Program Management Unit Manager.
7. Property Management staff in the Program Management Unit inspect the property and prepare a Recommendation Letter for the file, listing any needed repairs. The property owner/grantor is always required to make needed repairs before ODOT will purchase the property.
8. The Program Administrator obtains approval from Right of Way Manager or designee for the purchase-offer amount and then notifies the Region Right of Way Manager to make a verbal offer of the reviewed appraisal amount (less 7% for administrative costs) or for the amount approved by the Right of Way

Manager if different than the reviewed amount.

9. The Program Administrator puts together the Earnest Money Agreement. If there are needed repairs, NO VERBAL OFFER IS GIVEN until the repairs are completed. The Program's goal from certification of eligibility to making an offer is 60 days.
10. The employee has 4 months to accept ODOT's offer. The employee may attempt to sell the property to a private party during this time.
11. Property Management staff in the Program Management Unit are responsible for approving that repairs have been satisfactorily completed.
12. Upon receipt of the signed Earnest Money Agreement from the employee/grantor, the Right of Way Manager signs the Earnest Money Agreement and an Escrow is set up at a title/escrow company of the employee's choice.
13. After closing, the file is forwarded to the Program Management Unit. The employee/grantor then has no further interest, liability, or responsibility in the property.

#### **7.730 ELIGIBLE PROPERTY:**

ODOT reserves the right to determine the eligibility of property for purchase under this program.

1. Owner-occupied, single-family dwelling unit and the land it occupies (limited to parcels typical in size for residential use in the immediate area);
2. Mobile homes, land and related, or essential buildings.

#### **7.740 NON-ELIGIBLE PROPERTY:**

1. Multi-family dwellings;
2. Business property;
3. Agricultural property;
4. Personal property not an integral part of the residence;
5. Land in excess of typical residential lots;
6. Rental property;
7. Vacation or second homes.

## **7.800 QUALITY ASSURANCE AUDIT**

The Operations Unit Right of Way Quality Assurance Reviewer is responsible for conducting quality assurance audits on selected highway projects involving right of way acquisition. The entire land acquisition process is reviewed for compliance with federal and state laws and regulations, as well as for compliance with Department policies and procedures. Audit findings and recommendations may result in follow-up monitoring and support.