

**Arizona of Transportation
Project Delivery and Operations Division**

**Right of Way
Procedures Manual**



**PROJECT MANAGEMENT SECTION
UNIT 4950**

FHWA Certified: July 16, 2018

ADOT Updated: January 2024



Infrastructure Delivery and Operations

MEMORANDUM

TO: Interested Individuals and Each Holder of the Right Way Group Procedures Manual

FROM: Paula Gibson

CC:

DATE: July 30, 2018

RE: Manual Update

Attached is the most recent Procedures Manual for the Arizona Department of Transportation, Right of Way Group. As you are viewing the electronic (PDF) version of the manual, hyperlinks have been added allowing you to quickly navigate to the various Sections. At the end of each Section and exhibit, you will be given further directions.

This Procedures Manual complies with Title VI of the Civil Rights Act of 1964.

Should you have any questions please contact our office directly at (602)712-7316.



Paula Gibson
Right of Way Administrator



U.S. Department
of Transportation
**Federal Highway
Administration**

ARIZONA DIVISION

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December 13, 2018

In Reply Refer To:
ROWR 03
ROW Manual Approval

Paula I. Gibson
Right Of Way Administrator
Right of Way Group
Arizona Department of Transportation
205 South 17th Avenue, MD 612E
Phoenix, Arizona 85007-3212

Dear Ms. Gibson:

The Federal Highway Administration (FHWA) has received the update to the Arizona Department of Transportation's (ADOT) Right of Way (ROW) Manual. This update was required due to amended provisions published in a Final Rule on August 23, 2016. We have reviewed the updated manual and have determined that it meets the requirements of 23 CFR 710.201(c).

We appreciate the efforts of ADOT to update the manual, incorporate our comments and to consider the amended provisions in the Final Rule. With the completion of this review and update, FHWA is certifying that the Arizona Department of Transportation's 2018 Right of Way Manual is in compliance with federal regulations as of July 16, 2018. If you have any questions, please feel free to contact Alan Hansen at 602-382-8964 or alan.hansen@dot.gov.

Sincerely,

Karla S. Petty
Division Administrator

ecc:

John Eckhardt III, ADOT ROW
Alan Hansen, FHWA AZ Division Team Leader



Infrastructure Delivery and Operations

An Arizona Management System Agency

Douglas A. Ducey, Governor
John S. Halikowski, Director
Dallas Hammit, State Engineer
Steve Boschen, Division Director

July 6, 2018

Karla Petty
Arizona Division Administrator
Federal Highway Administration
Attn: Alan Hansen, Team Lead – PEARC
400 North Central Avenue, Suite 1500
Phoenix, AZ 85007-3212

Dear Ms. Petty:

As the Right of Way Administrator of the Arizona Department of Transportation, Right of Way Group, I hereby certify to the Federal Highway Administration in accordance with CFR 710.201(C), that the current Right of Way Manual submitted is in conformance with Federal and State real estate law and regulations.

There have been no changes to State law that would cause the manual to be in conflict with the Uniform Act requirements. The manual conforms to existing ADOT practices and contains the necessary procedures that comply with the Uniform Act and federal and State real estate laws and regulations. The ROW Manual reflects the amended provisions of the 23 CFR 710 Final Rule published August 23, 2016.

Sincerely,

Paula I. Gibson
Right of Way Administrator
Right of Way Group
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602-712-8758

Title VI of the Civil Rights Act of 1964,
and the Americans with Disabilities Act (ADA)

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), ADOT does not discriminate on the basis of race, color, national origin, age, sex or disability. Persons that require a reasonable accommodation based on language or disability should contact ADOT's ROW office at (602) 712-7316. Requests should be made as early as possible to ensure the State has an opportunity to address the accommodation.

De acuerdo con el título VI de la Ley de Derechos Civiles de 1964 y la Ley de Estadounidenses con Discapacidades (ADA por sus siglas en inglés), el Departamento de Transporte de Arizona (ADOT por sus siglas en inglés) no discrimina por raza, color, nacionalidad, edad, género o discapacidad. Personas que requieren asistencia (dentro de lo razonable) ya sea por el idioma o por discapacidad deben ponerse en contacto con 602.712.7316. Las solicitudes deben hacerse lo más pronto posible para asegurar que el equipo encargado del proyecto tenga la oportunidad de hacer los arreglos necesarios.

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Chapter 1 Organization, Responsibilities and General Procedures

1.01 Purpose

The purpose of this chapter is to describe the organization and responsibilities of the Project Management Section in the Right of Way Group.

1.02 Basic Responsibilities

Project Management Section is responsible for but not necessarily limited to the following:

- a. Coordinating and monitoring the schedule of the project activities of the Right of Way Group for the timely acquisition of rights of way
- b. Coordinating the clearing of construction projects relative to right of way requirements
- c. Appraisals / Market Analysis
- d. Appraisal review
- e. Advance acquisition program
- f. Local agency assistance program
- g. Red letter program
- h. Provide Project Estimates

1.03 Organization

Right of Way Project Management Section consists of four Sections: (1) Project Coordination, (2) Appraisal, (3) Appraisal Review and (4) Local Public Agency (LPA).

The Project Management Section Manager is responsible for the management, operation, and production of this Section. In the absence of the Manager, Appraisal Section Supervisor will be designated by the Manager, to assume the Manager's duties and responsibilities and in the absence of an Appraisal Section Supervisor, a senior full time employee designated by the Manager or the Deputy Right of Way Administrator for Development will assume the Managers duties and responsibilities.

To view Right of Way Project Management Table of Organization ~ [Click Here](#).

1.04 General Procedures

The Project Coordination Section coordinates all right of way activities associated with a highway construction project. Their involvement begins prior to the project scoping process and continues through the construction of the project. This includes:

- a. Attending public and project team meetings
- b. Providing input for project scope, schedules and budgets
- c. Provide cost estimates when necessary
- d. Coordinate all Project Right of Way Group activities
- e. Monitor the project parcel acquisition progress and parcel inventory
- f. Preparing reports as requested from Administration and other offices of the Project Delivery and Operations Division

- g. Preparing status reports
- h. Providing right of way project clearances and corresponding with other governmental agencies.

The Appraisal Section provides a real property appraisal and market analysis to facilitate right of way acquisition, exchanges and budget analysis, as well as litigation support to the Attorney General's Office.

Appraisal Review recommends valuation for acquisition for right of way transactions through the review of real property appraisal reports. Additionally, this Section coordinates appraisal and appraisal review contract services with ADOT Right of Way Operations Section Contracts Section, as well as providing litigation support to the attorney General's Office.

The Local Public Agency Section coordinates with and oversees the Local Public Agency (LPA) right of way activities;

- a. Provides guidance, training and qualifies LPA right of way staff for them to perform and oversee their right of way activities.
- b. Reviews acquisition files and information
- c. Provides the Right of Way Clearance for LPAs not approved as Certified Acceptance by the Local Public Agency Section of PDO Division
- d. Provides right of way support and assistance to the LPA Section of PDO Division

Chapter 2 Project Coordination Section Procedures

2.01 Purpose

The purpose of this chapter is to describe the functions, responsibilities, and general operating procedures of the Project Coordination Section of Right of Way Project Management Section.

2.02 Primary Function

The primary functions of the Project Coordination Section are to schedule, monitor and control the right of way activities and necessary functions for the timely acquisition of all property rights required to meet construction schedules and other transportation purposes.

2.03 Responsibilities

The Project Coordination Section is generally responsible for the following:

- a. Participation in the development of the project design scope
- b. Manage the project right of way budgets
- c. Act as liaison between the design functions and Right of Way
- d. Control and coordination of acquisition packages
- e. Control of project status
- f. Preparation of project status reports, including Manager's Report
- g. Scheduling
- h. Hazardous materials reports
- i. Public land transfers

- j. Request for FHWA authorization
- k. Right of Way project clearance
- l. Parcel Status Reports
- m. Post construction requirements for public lands
- n. BLM inquiries on existing right of way
- o. Special project assignments

2.04 Participation in the Development of the Project Design Scope

A Right of Way Project Coordinator will participate in the development of the project design scope as a member of the project management team. The Right of Way Project Coordinator

- a. Attends public meetings and hearings
- b. Provide right of way information on affected properties
- c. Anticipate acquisition and relocation problems
- d. Estimate right of way costs and right of way schedules

This information will be used in determining project location and design. The Right of Way Project Coordinator should recommend project changes to avoid anticipated right of way problems.

2.05 Manage the Project Right of Way Budget

To manage the project right of way budget, the Right of Way Project Coordinator will request or prepare a right of way cost estimate for the appraisal, title data, acquisition, relocation and demolition of all parcels on the project. This estimate will be used to develop the programmed right of way costs. After the budget is set, the Right of Way Project Coordinator shall monitor the right of way costs and keep them within budget. Any significant changes should be brought to the attention of the Project Management Section Manager.

2.06 Liaison between the Design Functions and Right of Way

The Right of Way Project Coordinator acts as a liaison between the project management team and Right of Way including but not limited to the following:

- a. Assist the Project Managers in anticipating and avoiding right of way problems.
- b. Participate in meetings and field reviews with the project designers, providing right of way expertise and project knowledge.
- c. Maintain knowledge of each parcel that is or may be required for the project. Project Managers and designers must be advised of right of way schedules and the importance of allowing adequate time in the project schedule for right of way activities.

2.07 Project Control and Scheduling

- a. The Project Coordination Section continually develops and maintains project control and scheduling system. This Section coordinates the production within the Right of Way Group and sets scheduling deadlines.

- b. The Right of Way Agents of this Section shall gather data on parcels for each project that involves right of way. This data includes duration times for each phase of the project and the completion of each phase on a parcel basis. Reports are produced indicating the status of each individual project and the target dates of project completion for each of the Sections.
- c. The Right of Way Project Coordinator assists in providing information for the timely preparation of right of way plans. They help to assure that surveys and title reports are requested to cover possible design changes and will obtain preliminary and final right of way requirements as early as possible.
- d. The Right of Way Project Coordinator must know where acquisition packages are at all times. As a tool and permanent record, a Project Inventory Sheet for each construction project will be completed as soon as possible.
- e. Appraisals should be ordered as early as possible within ninety days prior to the scheduled environmental clearance for the project. Total acquisitions appraisals can be requested in advance of the right of way plans. Right of way plans or parcel exhibits must be available to request appraisals for partial acquisition parcels. The Appraisal Section Supervisor or in the absence of the Appraisal Section Supervisor the Project Management Section Manager determines whether a Review Appraiser will order a fee appraisal or if a staff appraiser will be assigned. If a Review Appraiser is assigned, the appropriate form in the access database is to be initiated. Title reports, plans and other hard copy information are to be provided to the Review Appraiser or staff appraiser assigned.
- f. Upon receipt of the appraisal report, it is uploaded into the G-Drive Appraisal Folder for all to view and an email notice of the appraisal report arrival is sent to Property Management and the Acquisition Sections for their advance notice to initiate their advance preparations of an Extended Occupancy Agreement (EOA), holdback amounts, and preparations for Acquisition.
- g. Request Delineation packages for total acquisition parcels that will be acquired prior to the preparation of right of way plans as soon as title reports have been received. Delineation packages for partial acquisition parcels are prepared with the right of way plans. Delineation Packages for partial acquisition parcels may be requested if parcel exhibits are prepared and available in advance of right of way plans.
- h. Set demolition target dates for parcels that have been acquired to assure they are cleared in accordance with the project bid date. This date should also be used for parcels that are being leased so Property Management can determine a vacate date.

This data is used to set scheduling target dates in conjunction with ADOT's Five Year Construction Program. The right of way projects will be scheduled in conjunction with the published monthly Construction Schedule in order to meet the project bid calls scheduled by the Program and Project Management Section.

2.08 Control and Coordination of Acquisition Packages

The Project Coordination Section reviews and controls acquisition packages processed through the Right of Way Group.

- a. Before each acquisition package is assembled for the Acquisition Section, it will be checked to determine if it has all necessary right of way documentation in the delineation package; appraisals; and authorization. Authorizations may involve HAZMAT clearance, Federal authorization and appraisal acknowledgement by Right of Way Administration. In addition, the appraisal and delineation package will be reviewed to verify the areas to be acquired are correct.
- b. Once all items for a complete package are received, a Parcel Control Transmittal, ADOT Form 60-4426 (see Exhibit 11.01), will be completed. The parcel package containing the delineation documents, right of way plans, Extended Occupancy Agreements (EOA), holdback amount information and two appraisal copies together with a copy of the transmittal will be forwarded through the Operations Section Accounting Section to the Acquisition Section for acquisition of the necessary rights.
- c. EOA and the holdback amount information are obtained from the Property Management Section. If an EOA is required, this step will be completed upon receipt of the appraisal and making an advance copy available for the Property Management Section by providing them an email notice the appraisal report has arrived and making it available in the Appraisal Report Folder on the computer G-Drive. The original appraisal with the copy of the transmittal will be forwarded to the Records Center. (If an EOA is required, this step will be completed upon receipt of the appraisal.)
- d. If a relocation determination is required, an advance copy of the appraisal is made available to the Acquisition Section.
- e. A copy of the Parcel Control Transmittal form will be provided for entry into the computer database by Administrative staff.
- f. The appropriate information will be logged onto the Project Inventory Sheet by the Right of Way Project Coordinator.
- g. When a package is returned from the Acquisition Section, the parcel either is acquired or is being condemned. On limited occasions, a package will be returned and deleted, as the parcel is no longer required for construction. Accordingly, the Right of Way Project Coordinator will again check for correct documentation prior to transmittal to the proper Section or Section and complete appropriate logs/databases.

2.09 Control of Project Status

Control of project status is accomplished through an understanding of the construction project and monitoring each parcel status within a project. Information is received through various sources such as design and field meetings, verbal communications with agents, copies of written correspondence to property owners, transaction packages, managers' reports and interoffice communications. All critical parcel activities and project information is recorded in a master log called a Project / Parcel Inventory Sheet (see *Exhibit 11.02*) and entered into the computer database known as the Managers' Report.

The log will reveal the dates of hazmat clearances, delineation package and appraisal receipt dates, parcels transmitted to acquisition, completion of the acquisition of parcels on projects as well as "special conditions" obligating the State or the grantor in right of way contracts. The log

will also show Federal Highway Administration approvals, the date acquisition packages are transmitted to the Condemnation Section of the Right of Way Titles Section, date of Order of Immediate Possession and Final Order of Condemnation, right of way clearance date for construction project, the date the Parcel Status Report was sent to the District office as well as the construction bid, award and start of construction dates.

The Right of Way Project Coordinator analyzes this data to provide target dates for each service area to assure all right of way activities are completed to meet construction schedules

2.10 Preparation of Project Status Reports

The Project Coordination Section prepares status reports regarding the Right of Way Group's progress on highway projects.

The Section coordinates the updating of right of way data with the various Sections within the Right of Way Group. When updating is complete, current records of projects will be made available to Right of Way Administration or in answer to requests from other Project Delivery and Operations Division offices. The Project Parcel Inventory Sheet, maintained by the Section, is used as the principal source for data changes within these reports.

2.11 Scheduling

The Project Coordination Section develops best practice techniques and their relationships to the scheduling of projects.

The Section personnel will collect project specific data related to scheduling and information pertaining to the Right of Way Group.

This information is provided to the Program and Project Management Section to input into the active project status report.

Environmental Requirements

No property shall be acquired outside of the environmental footprint of a project without specific clearance from the Environmental Section. The Right of Way Project Coordinator shall notify the Environmental Section of the additional property to be acquired and request an assessment. The Right of Way Project Coordinator should provide design and right of way plans and all other pertinent information along with the request.

2.12 Hazardous Material Report

Hazardous material studies must be done on all projects requiring new right of way.

- a. The Right of Way Project Coordinator requests a hazardous material investigation by the Environmental Planning Section.
- b. A Pre-Initial Site Assessment (PISA) will be conducted. If the parcel is cleared at this stage, the coordinator enters PISA clearance date in the Database Manager's Report. If further investigation is required, the Right of Way Project Coordinator will request temporary rights of entry from the Right of Way Plans Section. Upon receipt of the Temporary Entry (TE) package, a transmittal form will be completed and a copy sent

with the package through the Operations Section Accounting Section to the appropriate Acquisition Section for acquisition of the necessary rights.

- c. A Project Inventory Sheet for the Temporary Entry package will be completed with the appropriate information. When the TE is signed, a copy will be sent to Environmental Planning Services authorizing them to begin the next phase of the hazardous material report process.

The following are the four phases of these reports:

- | | | |
|----|--------------------------------------|---------------|
| 1. | Pre-Initial Site Assessment (PISA) | (Pre-Phase I) |
| 2. | Initial Site Assessment (ISA) | (Phase I) |
| 3. | Preliminary Site Investigation (PSI) | (Phase II) |
| 4. | Detailed Site Investigation (DSI) | (Phase III) |

Results of these reports will determine whether the parcel is “clean” or whether potential hazardous material is present and further study is needed. If further study is necessary then Environmental Planning Section will automatically begin the next phase of testing after notifying Right of Way Project Management Section of results or if no remediation is involved.

- d. If the DSI involves remediation, the property owner, who is responsible for remediation costs, has the choice of hiring their own consultant. The acquisition agent assigned to the case is responsible for notifying Project Management of the property owner’s decision. The State is responsible for testing costs only. When remediation is finished and environmental Planning Services has cleared the property, the hazardous material report process is complete. This process is handled by the Acquisition Section of Right of Way.
- e. Log entries should be made for each step of these procedures to assure a timely reporting process. In addition, notification of any results should be given to the appropriate Acquisition Agent.
- f. TE’s for other purposes are handled in a similar fashion with notification to the Project Manager, Geotech and Archeology personnel.

2.13 Public Land Transfers

As part of ADOT’s compliance with FHWA Executive Order 12348, the Project Management Coordination Section will maintain a log of federal land transfers under Title 23 U.S.C. 107(d) or 317.

In conjunction with this log, a suspense system is maintained to monitor physical construction activity during the period as specified in the Highway Easement Deed. If construction has not started and an extension has not been granted, title shall revert to the Federal agency, which owned the land, upon approval of the State Transportation Board.

Per ASLD policy, when a highway construction project requires excavation of dirt or natural products from ASLD lands, dirt must remain on ASLD land or be purchased. The transaction with ASLD is conducted by Right of Way Acquisition Section.

In the event funding for the project is being provided by the Federal Highways Administration (FHWA), the FHWA will only provide funding toward the cost of either the land or the cost of the dirt/products required from the ASLD parcel, not both. Due to this limitation, ADOT should seek reimbursement from the FHWA for the higher overall cost of either the land or the dirt/products. (See 2.15 below for additional information regarding FHWA authorizations)

2.14 FHWA Authorizations

Right of Way projects that will have federal participation require authorization from Federal Highway Administration, (FHWA) before work can proceed. This authorization is required at two stages.

- a. In the first stage, and as part of preliminary engineering, authorization is requested for incidental expenses prior to final right of way plans preparation and to proceed with property appraisal activities. The request to FHWA will include an estimate for the cost of plans preparation, title work, appraisal preparation and miscellaneous expenses associated with the acquisition of the project. Cost incurred may be made to the project upon the date that FHWA gives the authority.
- b. In the second stage, authorization is requested for any acquisition and relocation. This is requested upon completion of appraisals and prior to any parcels going to Acquisition Section. A parcel-by-parcel acquisition and relocation cost estimate is provided in the request for authority to acquire. Acquisition and relocation activities can begin upon the date of the Federal authorization.
- c. Authorization is also required for the use of entry agreements on any Right of Way projects with federal-aid. This is even if the federal-aid is not in the R/W funding, but in any other phase of the project (i.e. construction, etc.). Before entry agreements are used, a request in writing to FHWA has to be made. If FHWA agrees, written authorization will be issued.

2.15 Right of Way Project Clearance

Each construction project requires a Right of Way Clearance prior to bid advertisement. The clearance process differs for projects requiring no new R/W versus projects with new right of way.

- a. At 60% design when no new right of way is required, the Project Management Section will then prepare the no new right of way clearance letter.
- b. For projects requiring new right of way, a State Highway Resolution needs to be obtained prior to the Right of Way Clearance being issued. The Project Management Section prepares the Right of Way Clearance (see Exhibit 11.03) including a parcel inventory and status summary in accordance with 23 CFR 635.309. The Project Clearance is for a full Right of Way Clearance if all the required right's of way are acquired or a conditional clearance if all necessary right's of way have not been fully acquired. The Conditional Clearance will provide an updated notification to FHWA identifying all locations where right of occupancy and use has not been obtained and include the anticipated activity completion dates. A Conditional Clearance must contain a Concurrence line for a signature and first be submitted to the local FHWA Division Realty Officer for the FHWA Concurrence signature before issuance. Should subsequent

changes to the project require new right's of way after a full clearance had been issued, an Amended Clearance will be issued after the subsequent required right's of way have been acquired.

- c. If there is no federal aid in the project, there is not any Federal action required. A clearance memo is prepared and directed to ADOT's Contracts and Specifications Section. If there is federal aid in the project and the project is designated full FHWA oversight, the clearance letter is prepared and directed to FHWA with a copy to ADOT's Contracts and Specifications Section. All clearance letters will be entered into the Right of Way Project Management Clearance Letter Database and a copy uploaded into the AIDW Project Resource.

2.16 Parcel Status Reports

Right of Way provides a Parcel Status Report to the appropriate District Office for each construction project. This report gives the status of all new R/W parcels. Any parcels with special conditions, including cost to cure items to be handled by the prime contractor, R/W or the owner, are noted. Copies of the Special Conditions memo and two sets of R/W plans are sent with the report to the appropriate District (One copy to the District Engineer and one copy to the Project Resident Engineer). Additionally, copies are also sent to the Project Manager. These documents will be sent by direct mail to ensure timely delivery.

If the construction project has no new right of way, the Parcel Status Report is prepared at the same time as the clearance letter. If the construction project has new right of way required, a Parcel Status Report is prepared at the time the construction project is being awarded.

2.17 Post Construction Requirements for Public Lands

Upon completion of the construction of the project, the following actions are necessary to maintain the State's interest in public lands granted for right of way.

The Coordinator receives an email with Project Completion Memo information from Field Reports. The Coordinator will verify if the project required the transfer/easement of land rights from a State Agency, Federal Agency or Tribal Nation. If there was, then the Coordinator will prepare a Grantee's Certificate of Construction for a transportation project and forward to the District Engineer where the project was located. Once the Coordinator receives the executed form back from the District Engineer, they will forward the original to the appropriate State Agency, Federal Agency or Tribal Nation. A copy of the executed form will be provided to the Acquisition and Plans Section. A copy will also be provided to the Record Center to be inserted into the parcel file, a copy uploaded into the AIDW Project Resource, and the entry in the R/W Project Management Projects database completed.

2.18 BLM Inquiries Regarding Existing Rights of Way

These procedures set forth the development and control of the responses to BLM inquiries on existing rights of way granted by the Department of the Interior, BLM, and is in accordance with the current approved Memo of Understanding between both Agencies. Periodically, BLM initiates follow-up on their requirement that the Department of Interior file a Grantee's Certificate of Construction or request an extension of filing time. BLM also makes periodic checks on continued use of existing rights of way. Such inquiries will be routed to Right of Way Project Management Section for handling.

The following actions apply to BLM inquiries concerning Grantee's Certificate of Construction, request for extension of filing time, or continued use of existing rights of way:

- a. If the construction has not been initiated twenty years after authorization, Right of Way Project Management Section will determine when the construction is scheduled and if the right of way is still needed. If the right of way is still needed, a letter requesting an extension of filing time will be prepared by Right of Way Project Management Section for the Manager's signature.
- b. If the inquiry concerns the continued use of right of way, a facility site, or a material site, where the construction has been completed, Right of Way Project Management Section will forward the inquiry by memo to Right of Way Plans Section, Property Management Section or Acquisition Section respectively to research and determine if the right of way is still in use. The appropriate Section or Section will respond to Right of Way Project Management Section by memo on the status of the right of way.
- c. If the memo reports the right of way is still in use, Right of Way Project Management Section will prepare the appropriate response on the BLM form for signature of the Section Manager.
- d. If the memo reports that the right of way is no longer in use, Right of Way Project Management Section will confirm this information with the District Engineer who will initiate the disposal process. Right of Way Project Management Section will prepare an interim response for Section Manager's signature that will advise the BLM that their request will be processed.
- e. Right of Way Project Management Section shall maintain a log of all BLM inquiries, which notes receipt of request, the Section researching it, and the date of response to BLM.

2.19 Special Project Assignment

From time to time, Right of Way Administration or the Right of Way Project Management Section Manager may request special project reports. These requests fall within the realm of the Section's responsibilities and duties.

Chapter 3 Appraisal

3.01 Purpose

The purpose of this chapter is to outline those policies that will generally apply to and to present general guidelines, which appraisers are to observe in carrying out the functions assigned to them. The appraiser should have a working understanding of Arizona statutes; federal-aid requirements; and cases involving eminent domain. These policies and guidelines are applicable to both staff and fee appraisers contracted with by the Department.

3.02 Authority

The guiding authority for the preparation of Right of Way appraisals is found in Arizona Revised Statutes 28-7096 which provides that:

“The Director shall justify each acquisition or disposal of real property, under this article, of real property with an estimated value of more than fifty thousand dollars by at least one appraisal report in sufficient scope to document and justify the economic basis for the acquisition or disposal.

Arizona Revised Statute 28-7096 requires that at least one appraisal report that is in accordance with current USPAP and FHWA requirements to document and justify the economic basis for the acquisition or disposal be completed for a property value of \$50,000 or more. Additional appraisals may be ordered on any property, depending upon the complexity of the appraisal problem and/or other special circumstances. If there is federal funding participation in the project and the acquisition is estimated at \$25,000 or less then a market analysis & proposed offer worksheet [waiver valuation 23 CFR 710.203(b)(1)(v)] may be utilized.

3.03 Appraisal Objectives

The objectives of the Appraisal Section are as follows:

- a. Provide adequate documentation for any monies expended by the Department for transportation purposes
- b. Provide the Acquisition Section with USPAP and FHWA Appraisal Report required information with which to conduct purchases or exchanges (appraisal reports for disposals are completed through the Property Management Section). A copy of the appraisal report is provided to the property owner through the Acquisition Agent.
- c. Provide a source of testimony for a subsequent condemnation case in the event that acquisition negotiations fail.

3.04 Litigation Support

The Right of Way Group, including Administration, Project Management Section and Titles Section staff, and the Condemnation Liaison shall provide support and services to the Attorney General's Office in condemnation actions.

3.05 Qualified Pool of Fee Appraisers

The Right of Way Group maintains, under contract, a pool of appraisers who have met the contract requirements and the Department's requirements and standards for appraisal work. Appraisers are selected from this pool to do specific appraisal assignments by ADOT Review Appraisers and the Operations Section Contracts Section. An affirmative effort shall be made to encourage qualified fee appraisers, including but not limited to minorities or women, to submit for approval qualification selection submittals to receive appraisal assignments with the ADOT. The Project Management Section will assist the Operations Section to the following:

- a. Make contact with local appraisal organizations by letter, to solicit interest.
- b. Prepare newsletters and other publications likely to be read by appraisers.

- c. Designate a list of independent fee appraisers through the Arizona Department of Transportation Engineering Consultants Section/Appraisal On-Call Services.

3.06 Staff/Fee Appraisal Assignments

- a. The Project Management Section Manager shall determine if the assignment will be accomplished by a staff and/or fee appraiser based upon the scope of work description and existing workload of Project Management Section staff, time constraints, special appraisal requirements and other factors.

For staff assignments, the Project Management Section Manager shall discuss each assignment with the appropriate Right of Way Project Coordinator and review appraiser to identify the staff appraiser and assignment due date.

- b. When selecting a fee appraiser, the Right of Way Project Coordinator will complete an assignment to a Review Appraiser by written or e-mail correspondence.
- c. The Review Appraiser shall make a physical site inspection to determine the nature of the appraisal problem prior to making the assignment. If it is not possible or practical, a thorough review of available information (including information from the Right of Way Project Coordinator) will be made prior to determination of the assignment.
- d. The appraisal request form in the presently used access database is initiated by the Right of Way Project Coordinator. The Review Appraiser will fill in the number of appraisal reports required, the fee appraisers to request bids from and the requested number of days to complete the assignment as well as comments to the appraisers, parcel information etc. Copies of title reports, plans and other information are to be provided to the Operations Section Contracts Section for processing.
- e. The Review Appraiser is to gather sufficient information to determine a preliminary estimate for the acquisition. More than one appraisal may be ordered depending upon the complexity of the appraisal problem and/or other special circumstances.
- f. Arizona Revised Statute 28-7096 provides that if the Review Appraiser determines the area to be acquired has an estimated market value of \$50,000 (A.R.S. 28-7096) or less on projects with no federal participation in any phase of the project (\$25,000 or less on projects which include federal funding participation) a Market Analysis & Proposed Offer Worksheet [waiver valuation 23 CFR 710.203(b)(1)(v)] or Summary Report may be completed and processed to the unit secretary as outlined in 5.07(c).

NOTE: (Per Title 49 CFR 24.102(c)(2)(C): Local Public Agencies working on projects that include Federal funding, may seek approval first from ADOT and as subsequently determined from FHWA to exceed the \$10,000 threshold, up to a maximum of \$25,000.

3.07 Awarding Fee Appraiser Contracts

All fee appraisal assignments are made in cooperation with the ADOT Operations Section Contracts Section.

3.08 Appraisal Transmittal, Review and Approval

All appraisals for acquisition must be processed through Appraisal Review and Project Management Section. Appraisals ordered for excess land disposal shall also be processed through Right of Way Property Management Section.

Staff appraisal reports shall be forwarded to Appraisal Review with a transmittal form.

Fee appraisal reports shall be submitted to Right of Way Operations Section in accordance with the assignment contract.

3.09 Appraisal Changes

Depending on the types of changes required to an appraisal, it may be possible to complete a Reviewer's Determination or it may be necessary to complete a new appraisal.

Changes in the area to be acquired or changes in the ownership, etc, which do not require a change in the date of valuation, can be addressed with a Reviewer's Determination or by an update by the appraiser.

Any subsequent new appraisal will be reviewed in accordance with the established State and Federal requirements and approved or recommended by a Review Appraiser and the appropriate appraisal review form will be completed. It will be the combined responsibility of the Review Appraiser and the Right of Way Project Coordinator to distribute the new appraisal and the review form in the same manner the initial/original appraisal was distributed.

Chapter 4 Appraisal Standards and Specifications

4.01 Purpose

The purpose of this chapter is to present a detailed description of the required subject matter to be discussed in the various sections contained in the appraisal report, as well as the specific contents required for the various appraisal report formats as detailed in Section 4.47 Appraisal Report Format. This information applies to both staff and fee appraisers.

The assumptions and limiting conditions typically found in an appraisal assignment pertaining to an appraisal are contained in the Certificate of Appraiser form (*see Exhibit 11.04*) which is located immediately after the "Auditing Breakdown" section of the appraisal report. When the individual assignment requires expanding on the assumptions and limiting conditions, the appraiser should discuss these additional items elsewhere in the report. These assumptions and limiting conditions should be referenced in this section of the report as follows:

"The underlying assumptions and limiting conditions pertaining to this report are contained in the "Certificate of Appraiser" immediately following the "Auditing Breakdown" section of this report. These assumptions and limiting conditions are an integral part of the report and are only placed at the end to facilitate reading of the report, not to minimize their importance."

4.02 Appraisal Cover Sheet

All appraisal reports shall be submitted with a cover sheet which will include the following items:

TYPE OF APPRAISAL

Parcel Number:

Owner:

Property Location:

Project Number:

Highway:

Section:

Date of Report:

Date of Value:

Appraiser: _____ NAME
Certified General Real Estate Appraiser No. XXXX

4.03 Purpose of the Appraisal

The following information shall be included in the "Purpose of the Appraisal" section of the report:

- a. A statement of purpose as included in the scope of work, including the interest being valued (fee, partial, easement, access rights, etc.), subject to "Schedule B" of the right of way title report. The subject property to be appraised will be described in the appraisal contract (for fee appraisers) or by review of the furnished right of way plans and title reports.

- b. The term "Market Value" is required to be utilized and referenced as defined by Arizona Revised Statute. 28-7091

"Market Value" means the most probable price estimated in terms of cash in United States dollars or comparable market financial arrangements that the property would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all uses and purpose to which it was adapted an for which it was capable.

- c. A statement referencing the assumptions and limiting conditions contained in the "Certificate of Appraiser" (see section 4.01)

4.04 Project Related Plans/Maps/Reports

The following including but limited to, maps, plans and reports, etc, can be obtained through the Project Management Section, which either has the report or can obtain a copy:

- a. Right of way and construction plans
- b. Aerial maps and topographical maps
- c. Scope of Project Report
- d. Design Concept/Executive Summary Report
- e. Environmental Assessment
- f. Hydrology/Drainage Report
- g. General Plans

4.05 Scope of the Appraisal

Appraisers must be provided the scope of work in accordance with 49 CFR 24.103(a) and appendix A. In conformance with the USPAP, an appraisal must describe the scope of the appraisal. This requires that an appraisal contain a clear and accurate description of the extent of the process of collecting, confirming and reporting data utilized in the report. This requirement is designed to protect others whose reliance on an appraisal report may be affected by the extent of the appraisers' investigation. The items to be discussed in this section include:

- a. Data sources and confirmations including geographical areas and time constraints of search.
- b. Scope of the project, including location, length and purpose (road widening, improvement of drainage facilities, etc.).
- c. Arizona State Transportation Board resolution data if available, including the number and date of the resolution authorizing the project and acquisition of the subject parcel.
- d. Right of way plan drawing number, date of approval and last revision date of each sheet affecting subject property.
- e. Subject areas as shown on the right of way plans (acres or square feet), i.e., area of the whole, areas/interests to be acquired and remainders, if any. Any deviation from the areas shown on the right of way plan must be explained.
- f. Title/ownership information based on title report, assessor information, etc.
- g. If the report is limited in scope, what typical procedures were omitted and why.
- h. If an assignment scope of work calls for something less than, or different from the work that would otherwise be required by the specific guidelines of the Uniform Standards of Professional Appraisal Practice, the report must state the limited or reduced scope of the appraisal.

If two or three appraisers are assigned on a single parcel, the name and telephone number of the other appraisers shall be supplied by the Review Appraiser to each appraiser in order to facilitate scheduling of the site inspection and coordination with the property owner and the Acquisition/Relocation Agent.

4.06 Legal Description

The legal description of the subject property is found in “Schedule A-1” of the right of way title report. When the entire ownership is extensive, reference may be made to the title report included in the addendum of the appraisal, rather than setting forth the lengthy legal description in the body of the report.

4.07 Five Year Chain of Title

The chain of title for the last five years as found in the Title Report must be discussed, including the following information:

- a. A review of past uses of the subject property and the dollar amount of all market transactions occurring within the last five years shall be disclosed. If confirmation of a market transaction is not possible, the reason must be stated.
- b. If a market transaction concerning the subject property is not used as a comparable sale in the valuation of the subject, the reason must be stated.
- c. Any change of title not reflected in the title report should be first submitted to the assigned Review Appraiser and discussed in the appraisal report by the appraiser, along with comments as to the source of information and verification.
- d. When no transactions have taken place during the last five years, a statement to the effect that the “present owner has held title since (year)” is sufficient.

4.08 Owner Contact

- a. In accordance with Federal and State regulations, the subject property owner, or the owners designated representative, shall be offered the opportunity to accompany the appraiser during the field inspection of the property. If the property owner declines to be present during the site inspection, it should be documented in the appraisal report.
- b. Initial owner contact must be made by correspondence a minimum of seven calendar days prior to the intended inspection date. Contact by letter shall consist of a Notice of Inspection, which includes the appropriate color-coded right of way plans sheet(s), a Field Inspection Response form and a self-addressed, postage-paid return envelope. This type of correspondence must be sent certified mail. Mailing of this letter shall not exempt the appraiser of due diligence in contacting the owner. If no response is received to a notice of inspection, the appraiser should attempt to contact the owner by other means. These efforts should be documented and discussed in the appraisal report.
- c. Contact by telephone a minimum of forty eight hours prior to the intended inspection date (including the telephone number where the property owner may be reached) shall be documented within the appraisal report. If the owner declines to meet with the appraiser, it may be necessary to mail a follow-up letter, along with the appropriate color-coded right of way plans sheet(s), to the owner. It is not necessary for this type of correspondence to be sent certified mail.

- d. For improved properties, the appraiser shall arrange for the assigned acquisition/relocation agent from the Acquisition Section to accompany the appraiser on the first site inspection with the property owners (and tenants, if applicable).
- e. During contact with the property owner, confirm current ownership in subject property as well as any contiguous ownership, leases, or parcel splits. Confirm preliminary property data and improvement characteristics, occupancy and subject sale information within the last five years (if applicable).
- f. Changes in Ownership.
 - 1. If the appraiser learns of changes in title to the subject property not reflected in the right of way title report, the information should be immediately reported to the assigned Review Appraiser who ordered the report. That person must notify the Right of Way Project Coordinator; appraiser shall analyze the effect (if any) on the appraisal process and/or report necessity (i.e. larger parcel determination that may require revision or cancellation of the assignment or abutting parcel assignments, etc.).
 - 2. If title changes occur on an advance acquisition parcel, the information must be immediately reported to the Right of Way Project Coordinator who is responsible for notifying the Right of Way Plans Section and the appraisal process halted until clarification of the situation is received.
- g. If the property owner's consent for an appraisal inspection cannot be obtained, the appraiser will contact the ADOT review appraiser with a summary report of the efforts made to obtain the property owner's consent, which the appraiser will document in the appraisal report, and request a revised scope of work. Upon receiving a change order to the original purchase order to modify the scope of work to allow for an exterior view methodology, the appraiser will prepare an appraisal based upon information available as a matter of public record. After an initial offer, a subsequent change order may be issued requiring the appraiser to conduct a physical inspection of the property and update the appraisal report based on the subsequent inspection.

4.09 Determination of the Larger Parcel

The "larger parcel" concept included in the principles of parcel acquisitions is an analytical premise unique to the field of eminent domain valuation and is of paramount importance in valuing partial acquisitions. The appraiser cannot determine the Highest and Best Use of a property before a conclusion as to the larger parcel is reached. Determination of the "larger parcel" and its value is the responsibility of the appraiser and as this concept directly relates to the determination of potential severance damages, care should be exercised in this analysis.

The larger parcel may be all of one parcel, part of a parcel, or several parcels combined, depending on the following:

- a. Unity of use: Unity of use is considered the most predominant test. This does not necessarily mean the existence or non-existence of current unity of use, but rather unity of Highest and Best Use. Thus, even though a parcel may be under one ownership and contiguous, there may be more than one existing or economic use of the site. In this case, there may be more than one "larger parcel" to be considered.

- b. Unity of title/ownership: Acquisition of parts of a whole at different times does not destroy unit of title, nor, in some cases, does the fact that one parcel is owned by an individual and the second is owned by a corporation under the control of that individual.

Likewise, a fee interest in one parcel and a leasehold interest in an abutting parcel can operate as one larger parcel for the remaining term of the lease.

- c. Contiguity: Although typically a prime factor in determination of the larger parcel, contiguity is also not always mandatory. For example, a site located several parcels away, which provides necessary overflow parking may be considered as part of a larger parcel. Another example would be the taking of a processing plant for items produced on a non-contiguous site.

4.10 Site Inspection

The site inspection report shall indicate the date and time of site inspection; as well as the name(s) of those present, i.e., property owner or designated representative, Acquisition/Relocation Agent, another appraiser, etc.

4.11 Tenant / Lease Information

The tenant lease information shall state if the subject parcel is owner or tenant-occupied. If tenant-occupied supply pertinent tenant information, such as number of occupants and names, length of occupancy, type of tenancy, date of occupancy, rental rates and terms, shall be included in the appraisal report. Whenever possible, the appraiser shall obtain copies of leases, so that all interests may be valued. In addition, the appraiser should discuss tenant improvements with both the owner and the tenant to ascertain ownership.

If the subject property is leased, the appraiser shall determine what interest, if any, the lessee has in the property. This will typically occur when market rent exceeds contract rent for the property and the lease is for a lengthy term.

4.12 Area Data

Area data shall include a concise narrative description of the general area, past growth, land usage, general economy, use trends, and any special conditions that were found.

4.13 Neighborhood Data

The neighborhood data shall identify, analyze and discuss the following salient facts regarding the subject neighborhood:

- a. Delineate the neighborhood boundaries. These boundaries occur because of natural or artificial barriers, physical attributes and/or development practices that characterize the area such as homogeneity of use, architectural design and quality of construction.
- b. Describe the neighborhood amenities, i.e., linkages to shopping, schools, churches, recreational and medical facilities, public transportation, etc.

- c. Describe the physical factors of the neighborhood, i.e., access, street layout, terrain/topography, soil conditions and drainage features.
- d. Describe the economic/financial factors, i.e., general range of housing prices, owner vs. tenant occupancy, employment centers and stability of incomes, pride of ownership as reflected in property maintenance.
- e. Describe the political/governmental factors, i.e., availability of municipal services (fire and police protection, public utilities, refuse collection), zoning patterns, deed restrictions and private covenants.
- f. Identify life cycle stage of the neighborhood.

4.14 Site Data

The site data shall describe the location of the subject site and all improvements thereon, including a discussion of the following factors:

- a. Size, shape and area
- b. Access and frontage
- c. Present use of the subject site and the immediate area, including land use in all directions
- d. Availability and adequacy of utilities
- e. Topography, soil conditions and drainage
- f. Flood zone and Census Tract data
- g. Off-site improvements, i.e., street-width, paving, curbs, gutters, sidewalks, streetlights, alleyways, etc.
- h. Location factors, i.e., proximity to inharmonious land uses, hazards or nuisances, such as noise, light, odor, excessive traffic, ravines, drainage ditches, etc.
- i. During the site inspection and area analysis, the appraiser shall:
 - 1. Inspect the subject property, enumerate all improvements (including walkways, driveways, patios, concrete pads, etc., fencing, signs, etc.) and measure all improvements affected by the acquisition.
 - 2. Measure distances of improvements to lot lines and/or new right of way line, if partial acquisitions.
 - 3. Sketch plot plan and locate improvements on it including asking the property owner/tenant about any underground tanks, septic systems, dry wells, water wells, etc. and showing approximate location.
 - 4. Sketch interior floor plan of improvements (if any), measure interior dimensions and indicate on floor plan sketch.

5. Take note of all improvement data in order to provide complete information in report.
6. Take a sufficient number of photographs, inside and outside, to show significant features of the property (including any signs and their visibility) and immediate area.
7. Interview the property owner/tenant during site inspection, for tenant information, division of realty and personality, water wells and water rights, confirmation of subject sale(s) (if any), recent improvements, etc.
8. Obtain pertinent rental information, copies of lease(s), income and expense statements, if the subject parcel is an income property.
9. Ask the property owner for any future uses planned for the site and/or any redevelopment plans already in progress.
10. Check the subject site for visible evidence of restrictions and/or easements that may not have been addressed in the furnished title report.
11. Check for prior legal non-conforming uses, signs located on property, visible indicators of potential hazardous waste concerns.
12. Take note of improvements located adjacent to subject site in all directions
13. Inspect the project area thoroughly, area/neighborhood boundaries, land uses, influences, amenities and similar areas/neighborhoods for comparable data collection.

4.15 Hazardous Materials

Although the Certification of Appraisal states that no responsibility is assumed by the appraiser for detecting the presence (or absence) of hazardous waste on a site to be acquired, the appraiser should be observant and take note of obvious potential hazardous waste indicators during his site inspection and make mention of the observed condition(s) in his appraisal report.

Past and present ownership and uses of a site should be reviewed, paying careful attention to such uses as gas stations, landfills, crop dusting operations, agricultural uses, dry cleaning establishments, etc., which may indicate the potential for hazardous waste on the site. In the course of performing the site inspection, the appraiser should take note of visual indications of potential hazardous waste concern, i.e., obvious fuel spills, discolored soil, trash dumps, etc.

If there is reason to believe that a site may be contaminated, the appraiser must include special notation of such findings in the appraisal report and specify that the value arrived at does not include estimated costs for potential clean up. In addition, the appraiser is required to report their observations to the Right of Way Project Coordinator, who is responsible for notifying the Hazardous Waste Coordinator with Environmental Planning Group.

4.16 Improvement Data

Enumerate all improvements on the subject property and describe all improvements affected by the acquisition on the subject property including quality of construction, condition of improvements, chronological and economic ages, as well as physical and economic remaining life. This information may be described in a narrative or in a form format chosen by the appraiser.

The appraiser will provide a plot plan (site plan and floor plan) to delineate known improvements (including approximate location of underground improvements or water well locations).

The data recording the affected improvements is required in all cases including appraisal of land as if vacant.

4.17 Division of Realty and Personality

- a. The appraiser is required to differentiate between real and personal property, as personal property is non-compensable under Arizona law. A detailed listing of items of realty and personality is required under this section of the report. Care should be taken to discover and properly discuss tenant improvements and leased fixtures, such as commercial laundry equipment, security or public address systems, etc.
- b. Typically, all items affixed in a manner meant to be permanent are considered as realty. However, at times, the property owner may wish to retain certain items such as special lighting fixtures, ceiling fans, etc. Substitute fixtures must be provided, or the electrical outlet capped, by the property owner at his expense. These items are then noted as personality in the appraisal and excluded from valuation.
- c. Other fixed items, such as built-in appliances, cabinetry, storage sheds, water purification systems, etc., may be retained by the property owner through salvage negotiations with the Acquisition Agent. These items are to be noted as realty in the appraisal and considered in the valuation of the subject property.
- d. When tenant-owned improvements are located on the real estate being appraised, their value will be determined in accordance with A.R.S. 28-7154 to be the greater of the following:
 1. The amount which the improvements contribute to the market value of the whole property (its contributory value), or
 2. Their salvage value: the probable selling price if offered for sale on the condition that they are removed from the property at the buyers' expense. Typically, salvage value is provided by Property Management Section.
- e. When appraising orchards, vineyards, timberland and agricultural properties, the trees, vines, cash crops, etc., are real property and should be valued at the amount that they add to the market value of the land.

4.18 Zoning

The appraiser shall state the existing zoning designation and jurisdictional authority, discuss minimum land area required, permitted uses and limitations, and if the subject conforms. A copy of the appropriate zoning map may be included. In addition, a check should be made to see if there are any pending zoning changes, the effects of which must also be discussed.

4.19 Restrictions and Easements

The appraiser shall discuss any existing restrictions or easements, by recording and/or usage, and state whether they will affect the use or marketability of the property. In addition, note the presence of irrigation districts or applicable water rights. Easements and restrictions of record are usually found in "Schedule B" of the title report. Unrecorded encroachments (i.e., existing access points, fencing, building or sign encroachments, etc.) may be visible during the site inspection and should be discussed.

4.20 Taxes and Assessments

Although there is no apparent relationship between tax assessments and market value, a brief discussion of what the current taxes are and whether these appear to be in line with other similar properties in the area shall be included in this section of the report.

Establish if there are any special assessments against the subject property (typically for area improvements, such as street paving, lighting, sewer improvements, irrigation districts, etc.), and discuss whether it has any effect on its use or marketability.

4.21 Signs

The appraiser shall state, as of the date of inspection, whether or not there are any signs located on the property being appraised. During the site inspection, the appraiser should do the following:

- a. Take photographs of all signs and their visibility from roadway.
- b. Measure sign face, poles, distance from ground, over-all height, distance from property lines and/or new right of way lines (if partial acquisition).
- c. Note the sign legend, whether sign is single or double-faced and whether sign is lighted, revolving, etc., and any other pertinent details.
- d. Contact the maintenance permits services department to ascertain the legal status of each sign.
- e. Determine the classification:
 1. On-Premise Signs: Signs belonging to the subject property owner or lessee, which advertise the business located on the site and are considered as part of the subject real property to be appraised.
 2. Off-Premise Signs: signs that are not owned by the property owner or lessee and are defined as a separate realty structure. The income to the site owner from the sign company is part of the real estate interest and should be included in normal appraisal analysis, while valuation of the sign itself may require a separate appraisal. If interest information is not available, the Appraiser establishes his market estimate based upon the best information and knowledge he has and his expertise.

The appraiser shall notify the appraisal requestor of any off-premise sign located on the subject property that will be affected either by location within the area to be acquired or construction of the project in order to ascertain whether a separate appraisal assignment should be requested. If a separate appraisal assignment is handling the sign valuation, there are still valuation issues to be handled by the subject property appraiser.

3. Realty Signs: If the sign belongs to the property owner, it is considered an on premise sign and should be considered in the appraisal (i.e., cost-to-cure for relocating the sign). If the sign belongs to a real estate company, it is considered as personalty and should not be considered in the appraisal

4.22 Highest and Best Use

Highest and Best Use is generally defined as that physically possible, legally permissible and economically feasible use to which a property may be put within the near future to yield maximum profitability. The analysis and discussion of Highest and Best Use is perhaps the most important section of the appraisal report. It is the basis for the valuation of the subject property, as well as for the gathering of comparable market data.

The appraiser shall consider alternative uses for the site that are physically possible, legally permissible, economically feasible and maximally productive in order to arrive at a conclusion of Highest and Best Use. This requires an analysis of such factors as zoning, past and present uses, availability and current market conditions (supply/demand), etc. If the determined highest and best use is different from that allowed under the current zoning, the discrepancy must be discussed in detail.

The Highest and Best Use of a parcel, as if vacant, may be different from the Highest and Best Use as improved. This occurs when the improvements on the site may not be appropriate and yet they contribute to the total property in excess of the value of the site as if vacant. As the improvements decrease in value and/or the site increases in value for other potential uses, the balance of value between land and improvements swings more toward the remaining value being in the site. In these cases, care should be taken to address any existing or potential interim uses of the site prior to demolition of the existing improvements and redevelopment to a higher use (within a foreseeable time frame).

A Highest and Best Use of land investment may be used; however, if it is reasonably possible to forecast a future Highest and Best Use, this also must be discussed. Care should also be taken to address existing or potential interim uses when a highest and best use of land investment is determined.

The same requirements apply to determining the Highest and Best Use in the after situation in the case of a partial acquisition.

4.23 Valuation

As a basis for estimating Market Value of real property, the appraiser compares and analyzes the subject property by as many separate techniques as are appropriate. Typically, value estimates are made utilizing the **Cost Approach**, the **Income Approach** and the **Sales Comparison Approach**. The appraiser is to consider all these approaches to value in completing an appraisal assignment and provide justification in the appraisal report if one or

more of these approaches are not utilized. Round off dollar amounts only at the conclusion of each approach, or at the conclusion of the report.

The Cost Approach is normally expected even when there is an abundance of adequate comparable sales available for the valuation estimate of the subject property. Land value must always be separately estimated. The Income Approach is typically not required in the appraisal for Market Value of total acquisitions of single-family dwellings when there is an abundance of adequate comparable sales, unless the subject property or neighborhood exhibits significant rental activity. In any case, market rent must be estimated. Of course, it is advisable to compare value indications through these approaches as a useful check of the value estimated through the Sales Comparison Approach.

4.24 Cost Approach

This approach to value is based on the Principle of Substitution that states, in part, that a prudent purchaser would pay no more for a property than the cost of acquiring an equally desirable substitute, given no undue delay in making the substitution. This approach is most applicable for properties containing new construction, or in valuing special use properties for which insufficient market data are available. The analyses required in this approach include estimating the value of the land as if vacant, present replacement (and reproduction, when applicable) cost of the existing improvements, and accrued depreciation from all sources. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. The appraiser shall show all computations and disclose the source of the cost information that was utilized.
- b. The appraiser shall provide the basis for, and estimate of, accrued depreciation from all causes: physical, functional and external.
- c. Physical depreciation shall be shown for each major item; however, small improvements (arbors, sheds, etc.) may be placed together for depreciation. Depreciation should not be applied to landscaping unless it is inappropriate for the Highest and Best Use of the site; is inappropriately placed; or has suffered from disease or lack of care or is at the end of its physical life.
- d. If major improvements are involved, and if the cost approach is given the greatest weight in the appraisal, it is recommended that a contractor's signed estimate of reproduction cost be obtained.
- e. Land values are to be based on market comparison of similar sites, considering consistent use. Based on the Theory of Consistent Use, land in transition to another use cannot be valued based on one use while the improvements are valued based on another. Therefore, the comparable sales utilized should have the same highest and best use as the subjects improved highest and best use or appropriately depreciated under "Economic Obsolescence".

4.25 Income Approach

This approach to value is based on the economic principle of anticipation, which states, in part, that value is created by the anticipation of future benefits accruing to the subject property.

These future benefits include periodic cash flows as well as a reversionary interest in the original investment. Obviously, this approach is most applicable for and only required in appraisals of investment-type properties; types which an investor would typically purchase for the income stream that the property could generate. The income approach should be used with caution and good judgment, especially when the subject property is not devoted to its highest and best use or has improper or inadequate improvements. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. The income approach must be based on economic rent and typical expenses, not the profit and loss of the existing business.
- b. Expenses for vacancy and collection loss, reserves for replacement and for management's wages are to be included.
- c. The appraiser shall explain how the capitalization rate was derived. Gross capitalization rate from the market may be used in the Income Approach only if Gross Rent Multiplier (GRM) analysis is not used in the Sales Comparison Approach.
- d. At least two distinct methods should be developed to support the capitalization process.

4.26 Sales Comparison Approach

Like the Cost Approach to value, the primary principle underlying the Sales Comparison Approach is the Principle of Substitution. The application of this approach is a direct comparison of similar properties, which have been sold, or offered for sale, to the property being appraised. The values found by the study of comparable market activity yield Market Value directly in accordance with its legal definition. This approach is most applicable when there is adequate market sales data available of properties comparable to the subject and can be applied to land alone or to improved properties. Although a full discussion of the procedures for implementing this approach is not considered necessary, listed below are a few items to be considered within this approach:

- a. The appraiser is responsible for providing the reasoning or logic that leads to each individual adjustment made. The discussion should be sufficiently persuasive to lead a knowledgeable person in the appraisal field to agree with the reasonableness of the adjustment and the Market Value as defined in Section 4.03(b).
- b. For each element of comparison requiring adjustment, the appraiser shall use either dollar or percentage adjustments, but not both. The adjustments must be based and supported on market data.
- c. When making adjustments, the appraiser should calculate the overall effect of the adjustment to the whole property to make sure it is reasonable.
- d. Care should be exercised by the appraiser not to "double adjust" for items such as size and room count, age and condition of improvements, etc.
- e. The appraiser shall state what affect, if any, the transaction date and terms of sale (financing) have on the validity of the sale as an indicator of Market Value.

- f. The estimated value of the subject property indicated by each sale shall be stated.
- g. The indicated values shall be reconciled into an estimate of value for the subject property based on what amount is most convincingly substantiated by the data presented.
- h. An adjustment grid is to be provided within each report.

4.27 Confirmation of Comparable Data

- a. Inspect comparable sales and complete data on appropriate Comparable Sales Record Sheet, an on site inspection photograph of the comparable and assessor map depicting the site are required. Comparable sales or listings utilized in appraisals must be verified as follows:
 - 1. Confirm sales information through public records, affidavit of value and deed. Verify names of parties to the transaction, consideration paid and legal description of property transferred. When working out of town, it is advisable to obtain copies of pertinent instruments.
 - 2. Confirm sales price, terms/conditions of sale and property transferred with grantor/grantee. As a last resort, sales may be confirmed with a realtor or other third party familiar with the transaction. The use of sales which have not been confirmed with participants to the transaction may be allowable in exceptional situations (typically only for vacant land parcels where the parties to the transaction cannot be located); as determined by the Review Appraiser.
- b. Date agreement was concluded and date deed was executed by both parties.
- c. Condition of improvements (if any) at time of sale (usually grantees opinion is best here).
- d. Any repairs or modifications made to property after transaction.
- e. Contingencies i.e., zoning change
- f. Other real estate or personalty included in transaction
- g. Buyer/Seller motivation
- h. Future plans for property
- i. Confirmation data - With whom (and telephone number, if possible), confirmed by whom and date confirmed. If confirmation is with a realtor, list the agency they represent.

4.28 Market Rent Estimate

An estimate of current Market Rent is required for all residential properties appraised.

4.29 Material Sites

Appraisals of material sites or lands subject to depletion will typically be based on the land value, through direct sales comparison, not on a computation of a unit price times the number of tons, yards or units of material anticipated for removal. Appraisals for Arizona State Land Department (ASLD) material sites shall be prepared in accordance with ASLD material requirements.

4.30 Project Influence

Any influence in valuation caused by the project prior to the date of valuation will be discussed and considered by the appraiser in each appraisal. However, the effect of these influences, if any, is to be disregarded in the valuation of the subject property, pursuant to Arizona Revised Statutes 28-7097 which states:

“In acquiring property for transportation purposes pursuant to this article, when determining the market value of the property to be taken and the market value of the remainder, if any, in the before condition, a decrease or increase in the market value of the real property prior to the date of valuation caused by the public project for which the property is to be acquired or by the likelihood that the property would be acquired for the project shall be disregarded.”

Therefore, with the exception of the subject sale, if any, the use of comparable sales that are considered to have project influence is not acceptable (in the before situation).

4.31 Valuation – Part to be Acquired

The appraiser shall describe the area to be acquired as shown on the right of way plans. Any deviation from figures shown on the ownership record sheet must be explained. All improvements located within the area to be acquired and any improvements within the subject parcel but lying outside the area to be acquired that may be affected by the acquisition or construction of the project must be included in the appraisal.

The appraiser shall isolate the value of the part to be acquired, including any improvements, from the perspective of its value as a part of the entire property. Reconciliation of gross and net acreage figures may be made at this point.

4.32 Underlying Fee and/or Areas of Jurisdictional Exception

- a. The valuation of underlying fee interest requires an analysis of the remaining utility in the easement area. The most typical acquisitions of underlying fee interest are in roadway easement areas. The Department typically pays less than 100% of full fee value for the surface rights in these areas at the time of acquisition. In addition, if the area underlying an easement for a roadway cannot be utilized for anything other than the existing roadway, it is typically considered to have no marketability and contributes no value to the site.
- b. However, in valuing these areas, proper consideration should be given to whether the area does, in fact, contribute value to the site, i.e., for calculating dwelling unit density, conforming to zoning regulations, etc. In cases such as this, analysis of comparable sales information should provide the value of the increased use potential the underlying fee area adds to the site and, hence the proper value of the underlying fee interest to be acquired.

- c. At times, the Department is acquiring something less than full fee interest and/or the property owner has in the following:

1. Access Rights: Properties abutting a public roadway have the right of reasonable ingress and egress, a private property right that cannot be taken without just compensation. However, this right is not unlimited, but subordinate to the public's safe use of the route. Thus, abutting owners are not entitled to access to their properties at all points along the public roadway, rather to reasonable and adequate access consistent with the Highest and Best Use of the site.

The measure of the value of the access right is the difference in the market value of the property immediately before the acquisition and the market value of the property immediately after the acquisition, due to the proposed construction.

2. Easements: Easement means an interest in real property that conveys a right to use or control a portion of an owner's rights in the property either temporarily or permanently. (23 CFR 710.105) In determining the value of easement interests to be acquired, the appraiser shall consider the rights forfeited by the property owner because of the acquisition. To properly analyze the effects of the easement, it is imperative to establish the current highest and best use of the area and ascertain the Department intended use. The analysis of the detrimental effects, if any, of the Departments proposed use on the current highest and best use of the area will allow the appraiser to arrive at a reasonable estimate of the percentage of fee interest being acquired.

- (a) Perpetual Roadway Easements are typically only acquired from the Forest Service, the Bureau of Land Management, Bureau of Indian Affairs and from the State Land Department. Both the Forest Service and the Bureau of Land Management provide the necessary right of way typically at no charge to the Department and, thus, do not require valuation. The State Land Department, however, requires payment for roadway easements. These perpetual roadway easements are typically valued at 99% of full fee value for the area to be acquired plus any severance damage.

- (b) Limited easements are usually estimated at less than full Market Value. Should the valuation of such easements be estimated at full Market Value, the appraisers reasoning must be clearly shown. Some types of limited easements typically acquired by the Department and their potential impact on value include:

- (1) Drainage Easements are typically required for two purposes:

- (aa) An area in which to construct a drainage structure. These types of drainage easements, depending upon the type of structure to be placed within them, may leave little remaining utility to the property owner. This may require valuation near full fee value for the area affected.

- (bb) An area only required to provide access to drainage structures located within the adjacent highway right of way for purposes of periodic maintenance. This type of easement does not typically restrict the owner's use of the site to any large degree and should be valued accordingly.
- (2) Easements for ponding are typically described areas where water may accumulate at times prior to draining through nearby drainage structures. The property owner typically retains full use of this area, subject to the conditions of the easement. However, in order to properly assess the effects of this ponding and hence the appropriate percentage of fee value, the appraiser should review project hydrology and drainage reports to ascertain the frequency and severity of flooding likely to occur.
- (c) Temporary Construction Easements (TCE) for construction purposes typically fall into two categories; those for the benefit of the Property Owner or of the Department. These takings are temporary in nature and the areas involved revert to the property owner at a specified time, typically upon completion of the construction project. The valuation of these areas is handled as follows:
 - (1) A TCE typically for the benefit of the property owner, i.e., driveway grading, fence replacement, utility hookups, etc. These types of temporary uses will not require a valuation analysis in the appraisal. The Acquisition Agent will present a standard TCE document for execution and a nominal payment will be processed to the owner, if appropriate. If, however, the work to be performed within the TCE area (i.e., change in grade) is considered to have an adverse effect on the property, the damages must be addressed in the appraisal.
 - (2) A TCE required by the Department to facilitate construction of the project, i.e., detour roads, storage of materials, etc. These types of temporary easements are leased from the property owner and will require a valuation analysis to estimate a monthly rental rate in the appraisal report.

4.33 Signs

All appraisals shall contain a statement as to the presence or absence of signs on the subject parcel as of the date of valuation.

If at the time the appraiser inspects the property and finds the property is improved with any signs or billboards they should contact the individual who had requested the appraisal report immediately.

Estimate present value of the sign through:

- a. Valuing the income stream to advertising billboards

- b. Direct Valuation Publications (example; Valuation of Billboards from Appraisal Institute, 2006)
- c. Obtaining contractor estimate in writing from more than one contractor.
- d. If sign can be relocated, and owner elects to relocate, obtain estimate from local contractor in writing from more than one contractor. Appropriate compensation to the sign owner is considered the lesser of the following:
 - 1. The cost to acquire
 - 2. The cost to relocate
- e. The cost of relocating these signs will typically be discussed under “Cost to Cure” to ascertain the appropriate compensation or can be considered under relocation.
- f. In those instances of partial acquisitions where separate appraisals have been ordered for the subject property and the billboard, the site appraisal shall address the cost to relocate the off-premise sign. The site appraisal must also address whether it is physically possible and legally permissible to relocate the billboard on the remainder site (if site improvements outside the area to be acquired allow for a new location of the sign) and the effect of doing so to any existing improvements and the feasibility of lost or relocated parking spaces, etc.).

4.34 Valuation – Remainder as Part of Whole

The basis for calculating the value of the remainder as part of the whole is:

Value of the whole before acquisition (\$) less the Value of the part to be acquired
 (\$) = Value of the remainder as part of whole or (\$)

4.35 Valuation – Remainder Parcel After

The valuation of the subject remainder shall follow the same steps used in valuing the whole parcel before the acquisition, from analysis of “Highest and Best Use - After” to final reconciliation, in order to assess potential severance damages, special benefits and/or cost-to-cure. The appraiser shall describe the remainder parcel, discussing how the subject has been physically altered by the acquisition, i.e., change in size, loss of access, improvements affected, etc. The appraiser shall indicate the areas of remainder parcels, right and left, as shown on the right of way plans ownership record sheet. Any deviation from the figures shown shall be explained. It is in valuing the remainder parcel – after that project influence is considered.

The subject remainder should be valued by comparison with sites located in similar situations, with respect to the highway in the after situation. Care should be used to insure that the location, use and accessibility of both the sales and the subject remainder are comparable. It may also be necessary for the appraiser to consider additional factors such as the timing of construction and completion of the improvement in evaluating the “after” situation, which may require applying a discounting technique (the present value of a given cash flow) to estimate severance damages or special benefits.

4.36 Severance Damages/Special Benefits

Damages and special benefits are measured by comparing the value of the remainder parcel after the acquisition with the value of the remainder parcel as a part of the whole

All appraisals shall state whether or not severance damages and/or special benefits were found in valuing the subject property and fully discuss all compensable items that contribute to a loss or increase in value.

Severance Damages

Severance damages reflect a decline in the market value of the remainder parcel (in the case of a partial taking) that arises as a result of the taking and/or construction of the proposed improvement. Elements of damage should be real, concrete and measurable. They should not be speculative or remote.

Some conditions that may cause damages to the remainder property are:

- a. Change in the Highest and Best Use of the property. A change in highest and best use is the most likely cause of severance damages. An analysis of the property for alteration as to size, shape, grade, or other physical change that would tend to change the highest and best use of the remainder parcel should be performed. If a change in highest and best use causes the property to suffer a loss in value in the market place, it should be documented by use of comparable sales or other data shown in the appraisal.
- b. The manner in which access to the property will be restricted by the acquisition and/or proposed construction and the availability of other means of access.
- c. Location of improvements in relation to the proposed highway.
- d. Size, shape and/or topography of the remainder property.

Benefits: There are two classifications of benefits:

1. General Benefits - Benefits which accrue to the community at large or to the general area adjacent to the project; and
 2. Special Benefits - Specific benefits accruing to the remainder property after a partial taking due to the construction of the project. Only properties abutting the highway may accrue special benefits such as an increase in the value due to location at a highway interchange in the after situation.
- e According to current Arizona law, Special Benefits (not general) can only be offset against Severance Damages to the remainder, not against the value of the part taken. This offsetting will be explained in the appraisal report.

4.37 Non-Compensable Damages

The appraiser is required to differentiate between compensable and non-compensable damages under Arizona law. The appraiser should be thoroughly familiar with Arizona statutes involving eminent domain and Federal regulations.

The following are examples of non-compensable types of damages that should not be included in the market value for the acquisition.

- a. Damage to businesses.
- b. Expense for moving personal property.
- c. Loss of good will.
- d. Damage due to owner's inability to locate an acceptable substitute location.
- e. Loss of profits due to moving or interrupting business by reason of the highway improvements, or any other reason.
- f. Damage due to annoyance and inconvenience suffered by the public in general.
- g. Circuity of travel (e.g., that caused by dividing a highway with a median strip or by installing a one-way street), unless the acquisition results in a loss of reasonable access.
- h. Re-routing or diversion of traffic.
- i. Change in the amount of traffic.
- j. In general, all types of damages considered potential, speculative, and remote, uncertain and difficult to ascertain, are not to be considered.

4.38 Cost to Cure

- a. The cost to cure method is used in situations where a property has suffered a damage which can be physically and economically corrected, and when the utility of the property can be restored, in whole or in part, by an expenditure that will substantially restore the value, such as by relocating or rearranging buildings, fences, irrigation, utilities, signs, etc., and/or re-establishment of physical access.
- b. The cost to cure element should be justified and an economically viable approach in relation to the potential damages if not cured. The severance damage offset by this cost to cure must be estimated or adequately explained and the cost of curing the damage to the remainder must be less than the cost of the damages. When the cost-to-cure is greater than the damages, if not cured, the cost is not justified and the appropriate compensation considered-the cost to acquire or payment of damages.

Thus, the appropriate compensation is considered to be the lesser of:

- 1. The cost to acquire/payment of severance damages; or
- 2. The cost to cure or restore the item to its functional utility prior to the acquisition or construction of the project.

Where it is obvious that items of minor damage (i.e., reconstruction of driveways restoration of fencing, etc.), must be cured, it is not necessary to measure the cost to cure against damages or cost to acquire.

c. **IMPORTANT!** Duplication of Payment:

A weakness in application of the cost-to-cure process is the duplication of payment that results when an item is paid for as being acquired and, in addition, is given full replacement cost in estimating the cost-to-cure damage. An example of this would be when an item such as fencing or pavement is located in the area to be acquired and included in the value of the part to be acquired, and then given full replacement cost to cure the situation as well. The correct method would be to subtract the contributory value of the item paid for in the part to be acquired from the cost of replacing the item as the appropriate cost-to-cure compensation, as shown below:

Total Replacement Cost	\$2,500
Less: Contributory Value of Item:	(\$-1,000)
Equals Cost-to-Cure Compensation	\$ 1,500

Care should be taken to extract only that portion of the item, which is being cured for deduction from the replacement cost. For example, if the part to be acquired consists of a 50'-wide strip taking of a fenced site, it is only necessary to restore that portion of the fencing abutting the new right of way line. Thus, the contributory value of only that portion of the fencing should be deducted from the replacement cost. The 50 feet of fencing along each side is simply being acquired and its value should not be deducted from the replacement cost to cure. Management pre-authorization is required to have a formal contractors estimate completed.

4.39 Uneconomic Remainders and Disposition of Excess Property

a. Arizona Revised Statutes 28-7092C provides the authority for acquisition of uneconomic remainders as follows:

"If a part of a parcel of land is to be taken for transportation purposes and the remainder is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, the director may acquire the whole parcel..."

If, in the appraiser's opinion, the remainder parcel (or a portion thereof) would be damaged to this extent due to the acquisition or construction of the project, two estimates of value shall be provided. They are:

1. Market Value if the property owner retains uneconomic remainder
 2. Market Value if the Department acquires uneconomic remainder
- b. Upon approval by the Reviewer, one or both offer options may be presented to the property owner.
- c. Items typically causing uneconomic remainders include:
1. Size, shape of remainder parcel
 2. Lack of access to remainder
 3. Topographical considerations

4. Additional encumbrances to the remainder, such as drainage and ponding easements, etc.
- d. In preparing a disposition of excess property, the market value estimate is a function of the highest and best use (or most probable use), which may be assemblage to an adjoining property. Such appraisals require consideration of the value of the adjacent land in its highest or most probable use as well the plottage value, i.e., the increment of value created by assemblage with the subject. Thus, the adjoining property will first be valued as a separate parcel and then as assembled with the subject excess property. Plottage value created by assemblage must then be allocated between the adjoining parcel and the excess parcel, recognizing that both parcels are needed to create plottage value, but taking into consideration what each contributes to that value. The portion of the allocation attributed to the excess parcel is the “market value” of the excess. A relatively simple case may represent the marginal contribution of extra land to the adjacent use and may be derived by size analysis and adjustment pairing.

In valuing the assembled parcels, the appraiser must also consider costs of physically joining the excess property with the adjacent property; for example, earthwork necessary to eliminate a substantial grade difference. The appraiser must also take into consideration soft costs such as time, carrying costs, and profit for any development required to realize the plottage value.

If the subject excess parcel lacks legal access a separate estimate must be prepared estimating the costs of acquiring access (typically through easement with the most probable and most feasible adjacent property). This requires a determination of the path(s) of least resistance or the least cost alternative(s) to gain access to the subject. Legal costs should be included.

Appraisals should include copies of all pertinent information previously provided to the appraiser by ADOT.

4.40 Final Reconciliation and Justification

The appraiser shall arrive at a final conclusion of Market Value and give justification for said conclusion.

The estimate of Market Value shall be based on consideration of whether all significant data has been accounted for, on what basis (approach) does the market buy and sell the type of property being appraised and what amount is most convincingly substantiated based on the data presented.

The appraiser shall round the final estimate of Market Value by reviewing other market transactions to ascertain what degree of rounding is occurring in the marketplace for the type of property being appraised.

4.41 Lessee / Lessor Interest

If applicable, the value of the leasehold and leased fee interests of the subject property shall be estimated, with appropriate support provided.

The Lessee interest, plus the Lessor interest, is not to exceed the total value of the property, or in a partial acquisition, the total value of the part to be acquired.

The value of any tenant-owned improvements located on the real estate being appraised, shall be determined.

4.42 Auditing Breakdown

The appraiser shall state separate estimates for value of land and improvements, itemizing the rounded total into rounded subtotals of land, improvements, severance damages, special benefits, etc. The breakdown should also include itemization of the various interests being acquired, i.e., easements, leased fee, leasehold, temporary construction leases, off-premise signs, etc. This breakdown is necessary for accounting purposes and for federal reimbursement as needed. The value of a temporary construction easement is to be provided as a monthly rental rate and indicated separately below the Auditing Breakdown and not included in the total.

4.43 Certificate of Appraiser

The Certificate of Appraiser Form (*see Exhibit 11.04*) shall be included in each appraisal report. The certificate shall cite the appraisers Arizona Certification Number or License Number. The appraiser must sign the certificate.

Should the appraiser desire to include their own Certificate form, it should be included, as an additional Certificate not in place of the ADOT required form.

4.44 Appraiser Certification

The Department requires that its appraisers and reviewers (both staff and fee) maintain the appropriate Arizona State professional designation pursuant to Arizona Revised Statutes 32-3603, which states:

“...all real estate appraisals and appraisal reviews performed in this state shall be performed only by individuals licensed or certified...”

Pursuant to A.R.S. 32-3622(B), appraisers and reviewers are required to include their designation and individual certificate number in all appraisal reports.

4.45 Required Documentation

The following items shall be contained in the appraisal or addendum:

- a. Copies of right of way ownership record and plans sheets, with subject parcel outlined and color-coded to show area(s) of acquisition and the various interests to be acquired. If right of way plans are not available, include a copy of the appropriate assessor ownership record and map depicting the subject property.
- b. On site inspection photos of the subject property, including all improvements (inside and out) taken or damaged.
- c. A sufficient number of photographs properly identified and taken at various angles to show significant features of the property, especially the improvements. Inside photos of

all improvements should be properly identified. At least two outside views of major improvements and views of the roadway should be included.

- d. For partial acquisitions, indicate the area to be acquired and remainder areas on the on site inspection photographs, if possible.
- e. For staff appraisers, digital copies of all photos are to be included in the Right of Way file copy of each appraisal.
- f. A plot plan showing location and dimensions of improvements, right of way line (old and new), approximate distances and any special features unless the area to be acquired consists of vacant land and a plot plan would not serve to clarify the area to be acquired more than what is depicted on the right of way plans (i.e., Strip-taking from a vacant land parcel).
- g. A floor plan of the interior with measurements, if such improvements are affected by the acquisition.
- h. A comparable sales map depicting the location of each comparable utilized in the report in relationship to the subject property and the data sheets for the comparable sales which were used in arriving at the Market Value estimate.
- i. Right of way title report (if available)
- j. A copy of the signed ECS Contract Modification and, if applicable, any other document (e.g., a "Letter Contract") describing the compensation you are to be paid for any expert work and testimony provided in a resulting condemnation lawsuit.
- k. A list of all other cases in which you have testified as an expert at hearing or trial during the previous four years.
- l. Other if appropriate:
 - 1. Copy of advance acquisition request/approval
 - 2. Copies of leases
 - 3. Floodplain maps
 - 4. Contractor estimates
 - 5. Any other pertinent information

4.46 Submittal of Appraisals

Fee appraisers shall submit the original appraisal report and the appropriate number of copies to Right of Way Operations Section in accordance with the assignment contract.

Staff appraisers shall submit the original appraisal report and the appropriate number of copies, as outlined below, to the secretarial staff, who will date-stamp the face sheets, prepare a transmittal and forward to Appraisal Review.

The original appraisal report and four copies, one compact disc and an electronic copy to the Right of Way File Transfer Protocol Site shall be submitted. Staff appraisers shall retain an additional copy of the completed appraisal report for their personal files.

4.47 Appraisal Report Formats

The selection of the appropriate appraisal report format is determined by the Review Appraiser. The appraiser must be aware that typically only the reporting format is shortened or abbreviated, depending upon the scope of the assignment, not the appraisal process.

Department policies and general requirements are listed below.

- a. Informal Estimate - Typically limited in scope, the elements required to complete an informal estimate are usually less detailed and reports are more concise (typically on office memo form) than formal estimates or appraisals. Requests for informal estimates include such items as market rent, amenity components for relocation determinations, etc.
- b. Formal Estimate - A formal estimate requires essentially the same research and data collection elements as required for an appraisal. Requests for formal estimates include design alternative alignment estimates, proposed property exchanges, parcel or project estimates for funding purposes, i.e., advance acquisition, etc.
- c. A project estimate requires the consideration of multiple right of way categories: including plans, survey, titles, acquisition costs, relocation costs, and demolition costs. The Acquisition, Property Management, Plans, Titles, and Project Management Sections will assist with the relocation and demolition costs to be compiled into the final project estimate.
- d. Real property valued at \$50,000 or less and a non-complex acquisition may be justified by a Market Analysis and Proposed Offer Worksheet (Exhibit 11.08), and the appraisal requirement may be waived under A.R.S. §28-7096. (This Statute applies to ADOT projects only.)
- e. The appraisal waiver valuation (23 CFR 710.203(b)(1)(v) limit is set at \$25,000 on projects with federal participation, as provided by Title 49 CFR 24.102 (c) (2) and approved by Federal Highway Administration.

NOTE: (Per Title 49 CFR 24.102(c)(2)(C):

Local Public Agencies working on projects that include Federal funding, may seek approval from the FHWA to exceed the \$10,000 threshold for LPA projects.

Market Analysis and Proposed Offer Worksheet (waiver valuation) – Used for properties valued at under \$50,000. The use of a Market Analysis and Proposed Offer Worksheet (waiver valuation) rather than a narrative or summary report is determined, not just on a project-by-project basis, but also on a case-by-case basis. A senior staff appraiser determines which method to use based on land values in the project areas and the complexity of the take. Land values may be determined by a comprehensive search of comparable sales solely for the purpose of completing a Market Analysis and Proposed Offer Worksheet (waiver valuation) for properties. The appraiser responsible for the comparable sales search, will also be responsible to view the area to be acquired to note the improvements, and what cost to cure items (if any) need to be addressed (i.e. fence relocation, cost to replace landscaping, etc.). The total value including any cost-to-cure items may not exceed \$50,000. One or more photographs of the parcel including any improvements in the take area must accompany the Market Analysis and Proposed Offer Worksheets (waiver valuation) on properties valued at between \$25,000 and

\$50,000. This threshold only applies to ADOT projects. The established value must be reviewed and concurred with by a Right of Way Manager prior to presenting an offer. ADOT appraisers are not authorized to present offers to purchase property rights.

- f. Summary Report - may be used when the area to be acquired has an estimated market value less than \$50,000. Typically, this will occur as a result of the parcel size, shape and/or utility. Other factors that may influence an estimated value in this range include the area to be acquired, restrictions and encumbrances and/or non-complex property damages, which are nominal or measured by Cost to Cure. This report format will require substantiation based on specific comparable sales or other market data and shall include a brief discussion of the following items:

1. Appraisal Definition:
2. Purpose of appraisal, including property rights appraised
3. Reference to Arizona Revised Statute 28-7091, defining value
4. Statement of Assumptions and Limiting Conditions
5. Identification of inspection and property owner contact dates
6. Property Description:
7. Resolution number and right of way plans drawing number, with date of last revision
8. Legal description
9. Length of ownership and discussion of subject sales, if any
10. General description of the subjects' location, physical features, improvements (including signs) and current use
11. Statement of current zoning and Highest and Best Use
12. Valuation
13. Description of area to be acquired and remainder
14. A general discussion of comparable sales and adjustment factors
15. Estimate of market value
16. Statement regarding project influence
17. Auditing breakdown
18. Certificate of Appraiser
19. Addendum

- g. A Uniform Residential Appraisal Report (URAR) may be used for the total acquisition of non-complex single-family residences, co-ops, condominiums and mobile homes. In addition to a completed URAR computer form, a narrative discussion of information applicable to each of the following sections, as described earlier in this chapter is required for this appraisal format:

1. Purpose of the Appraisal
2. Scope of the Appraisal
3. Legal description
4. Five-Year Chain of Title
5. Owner Contact and Site Inspection information
6. Tenant Information (may include Leasehold Interest)
7. Division of Realty and Personality
8. Brief discussion to justify adjustment factors, providing necessary support for adjustments made in the U.R.A.R.
9. Statement regarding presence or absence of signs
10. Statement regarding Project Influence

11. Estimate if Market Rent if appropriate
 12. Auditing Breakdown
 13. Certificate of Appraiser
 14. Addendum
- h. Detailed Narrative Report - is required for total acquisitions and for complex appraisal assignments. Additionally, this format may be utilized for non-complex partial acquisitions. The Detailed Narrative Report format requires an in-depth discussion of the information applicable to each of the following sections, as described earlier in this chapter:
1. Purpose of the Appraisal
 2. Scope of the Appraisal
 3. Legal Description
 4. Five-Year Chain of Title
 5. Owner Contact
 6. Site Inspection
 7. Tenant Information (if applicable)
 8. Area Data
 9. Neighborhood Data
 10. Site Data
 11. Improvement Data
 12. Division of Realty and Personalty (if applicable)
 13. Zoning
 14. Encumbrances, Restrictions and Easements
 15. Taxes and Assessments
 16. Signs
 17. Highest and Best Use
 18. Valuation
 19. Cost Approach (if applicable)
 20. Income Approach (if applicable)
 21. Sales Comparison Approach
 22. Estimate of Market Rent (if applicable)
 23. Project Influence
 24. Description/Valuation of Part to be Acquired and discussion of Physical Effects of the Acquisition (if non-complex partial acquisition)
 25. Explanation of non-complex Severance Damages, Special Benefits and/or Cost-to-Cure (if applicable)
 26. Final Reconciliation and Justification
 27. Lessee/Lessor Interest (if applicable)
 28. Auditing Breakdown
 29. Certificate of Appraiser
 30. Addendum
- i. Before and After Narrative Appraisal: This type of appraisal is required for all partial acquisitions. This type of appraisal requires extensive research in order to estimate value of the entire parcel before acquisition, value of the part to be acquired and value of the remainder parcel both before and after the acquisition.

The Before and After Report format includes all those requirements listed for a Detailed Narrative Report in order to establish the value of the subject parcel as a whole before the acquisition, PLUS:

1. Valuation of the remainder parcel as part of the whole
2. Valuation of the remainder parcel after the acquisition as a separate entity

4.48 Disclosure of Information

All appraisers shall follow the guidelines outlined below when disclosing project or appraisal information:

- a. Appraisers shall observe confidentiality in accordance with the Ethics Provision of the Uniform Standards of Professional Appraisal Practice.
- b. Even after approval of the value by ADOT, appraisers shall not disclose the appraised value of a parcel to anyone other than appropriate Department officials, unless required by due process of law. Requests for such information from property owners shall be referred to the Acquisition Section. All other requests shall be referred to Operations Section.
- c.. Unless the right of way plans have been accepted and approved (finalized), all plan sheets distributed outside of Right of Way shall be indicated as "Preliminary" plans.
- d. Ownership record sheets from the right of way plans shall not be distributed to property owners.

4.49 Record Retention

Arizona Revised Statutes 32-3637 specifies the requirements for retention of appraisal records as follows:

- a. A State Licensed or State Certified Appraiser shall retain a work file for five years after preparation or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.
- b. A state licensed or state certified appraiser shall do either of the following:
 1. Have custody of the appraiser's work file.
 2. Make appropriate work file retention, access and retrieval arrangements with the party having custody of the work file.
- c. The Department of Financial Institutions, Real Estate Appraisal Division (READ) may inspect all records required to be maintained under this chapter by the state licensed or state certified appraiser on reasonable notice to the appraiser.
- d. For the purposes of this section, "work file" includes documentation necessary to support the appraiser's analyses.

- e. On projects receiving federal aid the appraiser shall retain the work file for three years after the Federal project close-out.

Chapter 5 Appraisal Review

5.01 Purpose

The purpose of this chapter is to describe the functions, responsibilities, and general operating procedures of Appraisal Review of Right of Way Project Management Section.

It is the responsibility of the review appraisers to determine a Value Recommendation for Acquisition or Market Value for property to be acquired or owned by the Department, and to ensure that the appraisal reports are written in compliance with Arizona Department of Transportation appraisal procedures requirements and the Federal requirements. The purpose of appraisal review is twofold:

- a. Investigate, analyze, and verify the logic and procedures used in appraisal reports.
- b. Ensure competent and thorough reports that generate sound values.
- c. Ensure Uniform Act compliance.

5.02 Appraisal Review Standards

The review appraiser will base all conclusions on standards as set forth in the following:

- a. The Arizona Department of Transportation Right of Way Procedures Manual, Chapter 4 Appraisal Standards and Specifications, referencing policies, procedures, standards and specifications.
- b. U. S. Department of Transportation Uniform Relocation Assistance and Real Property Policies Act of 1970, as amended (Uniform Act).
- c. Uniform Standards of Professional Appraisal Practice (USPAP.)

5.03 Appraisal Review

The following is a guide describing the process of appraisal review:

- a. The review appraiser will determine the appraisal problem and scope of work, a copy of the right of way plans sheet and the ownership record sheet to be used by the appraiser to prepare the appraisal report.
- b. Identify the report under review, the real estate and real property interests being appraised, and the date of value of the report under review.
- c. Review the description of the subject property, noting any unique or special features that might sufficiently affect property value.
- d. Verify the total ownership area, acquisition area and any remainders.

- e. Check critical mathematical computations for appropriateness and accuracy.
- f. Review appraised value indications, as derived from the cost, income, and sales comparison approaches, and the correlated value conclusion.
- g. Inspect the subject and the comparable properties including the improvements.
- h. Determine if the part to be acquired was valued as part of the whole or as a separate economic unit.
- i. Determine if the before and after remainders have been valued and if special benefits and/or severance damages have been considered. Determine if a cost to cure is appropriate.

5.04 Appraisal Analysis

The following is a guide describing the analysis to be made by the review appraiser:

- a. Concur with the appraisers highest and best use determination, or cite the reason for disagreement.
- b. Conclude on the appropriateness of the appraiser's methods of valuation, including the quality of data utilized for any applicable approach to value.
- c. Review the reasoning and logic involved in the dollar and/or percentage adjustments applied to the market (sales) data.
- d. Examine assumptions and limiting conditions for appropriateness.
- e. Consider the appropriateness and the location of the comparable sales in relation to the subject and consider project influence.
- f. Determine the appropriateness of the appraisal methods and techniques used, and note the reasons for disagreement, if any.

5.05 Value Conclusion

The market value conclusion can only be made by the review appraiser. The valuation conclusion of the review appraiser will be based on the factors set forth in the appraisal or as determined from the review.

In the case of multiple appraisal reports or legal problems of compensability, the reviewer will prepare a narrative analysis comparing and analyzing both appraisal reports and select the appraisal report which best represents the most reliable indicator of value. The narrative, which may be a Reviewer's Determination, must contain an explanation of the logic and reasoning utilized by the reviewer to reach his/her conclusion.

The reviewer must thoroughly understand any differences in the reports. Regardless of which appraisal report is selected, all appraisals should comply with the department's standards included in this procedures manual.

5.06 Appraisal Discrepancies

In the process of the appraisal review, any necessary corrections are to be requested of the appraiser in order to provide the best final product possible.

If wide discrepancies exist between two appraisals on a single parcel, the review appraiser should call a conference with each appraiser to review the reasons for the discrepancies.

5.07 Approval of Appraisal Report

- a. When the appraisal reports are accepted by the review appraiser and the market valuation is determined, an Appraisal Review Summary and Valuation Recommendation will be prepared (or Recommendation form by a fee reviewer). The form will be dated and signed by the review appraiser.

These forms will contain the Market Value approved/recommended by the reviewing appraiser for acquisition purposes. Any difference in value between the approved/recommended amount and the amount shown in any of the appraisals submitted on the parcel will be explained under "Remarks."

- b. The reviewing appraiser will indicate whether or not he has included an allowance in the approval and/or estimated Market Value for items compensable under State law but not eligible for federal reimbursement. If such items are included, the estimate should show the items and their indicated value.
- c. A Market Analysis and Proposed Offer Worksheet (waiver valuation) shall be reviewed by a Right of Way Manager. In instances where a narrative or summary report is received which values the acquisition at less than \$50,000 on projects with no federal participation (\$25,000 or less on projects which include federal participation) . These requirements are made a part of this manual (Exhibit 11.07). (This section applies to ADOT only.)

NOTE: (Per Title 49 CFR 24.102(c)(2)(C):

Local Public Agencies working on projects that include Federal funding, may seek approval through ADOT from the FHWA to exceed the \$10,000 threshold, up to a maximum of \$25,000.

- d. Review Appraisers will obtain the appropriate signatures from the Right of Way Administrator or Deputy Right of Way Administrator for Development as necessary.
- e. The appraisal review recommendation completed by a contract review will require the signature of the Right of Way Administrator or Deputy Right of Way Administrator for Development, approving the recommended valuation on behalf of the Department.
- f. When the appraisal and/or the review valuation is \$750,000 or more, the Appraisal Review Summary and Valuation Recommendation form will require the signature of the Right of Way Administrator, acknowledging that proper administrative procedures have been followed in the appraisal process.

- g. Upon completion of the appraisal review and the approval process, copies of Appraisal Review Summary and Valuation Recommendation signed by the Right of Way Administrator or Deputy Right of Way Administrator for Development will be made for each of the appraisal copies and submitted to the Administrative Secretary of Project Management Section for distribution to appropriate Right of Way Project Coordinator for processing.

5.08 Project Consistency

When providing appraisal reviews on a project with multiple parcels, project consistency shall be maintained. Project consistency records and maps shall be available upon request.

5.09 Miscellaneous Services

When requested, review appraisers will furnish assistance or provide services to other ADOT right of way sections. This assistance includes but is not limited to; assisting right of way agents with valuation proposals submitted by property owners, review excess land appraisals for Property Management Section.

Chapter 6 Red Letter Process

6.01 Purpose

The Purpose of the Red Letter Process is to limit the future escalation of right of way costs by the notification, by Local Public Agencies to ADOT, of potential development plans within a quarter mile of established or proposed project corridors.

6.02 Procedure

- a. Upon notification by any local public agency of impending development, the Right of Way Coordinator will review and analyze the proposed development project. If the area in question is affected by the highway project, correspondence is sent to the local agency explaining the affect the project will have on the area in question.
- b. Determine if there would be financial benefit to ADOT by entering into negotiations with the developer/property owner for acquisition. In accordance with Chapter 7, Advance Acquisition Process and as applicable in the Code of Federal Regulations-23 CFR 710.501, 710.503 or 710.505.
- c. The final decision to acquire lies within the Right of Way Administration.
- d. After the authorization has been obtained for acquisition, the Right of Way Project Coordinator will process the parcel for appraisal and acquisition through the Project Management Section Manager for processing.

Chapter 7 Advance Acquisition Process

7.01 Purpose

FHWA may authorize the use of funds apportioned to the State under title 23 for an Early Acquisition Project in accordance with the requirements outlined in 23 CFR 710.501 and 710.503. The purpose of this chapter is to describe the additional functions and responsibilities of the Project Management Section in the advance acquisition of properties and local agency assistance. The early acquisition of a real property interest shall be carried out in compliance with all requirements applicable to the acquisition of real property interests for federally assisted transportation projects.

7.02 Primary Function

The primary function of this process is to administer the advance acquisition of certain properties and advisory assistance to local agencies.

1. The first consideration for this type of acquisition will be to meet the established criteria for Property Acquisition Alternatives (23 CFR 710.01). To be considered, one of the two reasons for approving advance acquisition must be met: 1) to forestall development 2) to alleviate hardship.
2. Sufficient documentation must be supplied to substantiate the advance acquisition in either case.
3. In case of a hardship, information must be provided to substantiate a severe financial, safety, or medical hardship with an indication that the sale of the property to the State will significantly impact alleviation of the hardship. [23 CFR 710.503(c)]
4. The proposal made by the property owner must reflect an opportunity for the State to realize a financial advantage by purchasing the property now. Financial advantages to be considered include but are not limited to the following:
 - (a.) A purchase price that is advantageous to the State when considering present and future value.
 - (b.) Minimal or no down payment requirements
 - (c.) No interest or interest rates significantly below market rate and optimally below the current bond rate.
 - (d.) A combination of the above listed that reflects an overall advantage to the State.
5. In the event the terms for acquisition cannot be accepted by the State or clear title cannot be delivered, we will not proceed to the condemnation process.
6. In the event, the terms proposed for acquisition are acceptable by the State, then final approval for the acquisition must be requested from the State Transportation Board along with the adoption of a relevant resolution.
7. The acquisition under this section shall not influence the environmental review of a transportation project, including the decisions about need to build project or the selection of an alternative. [23 CFR 710.503(d)]

7.03 Supplemental Function & Responsibilities

A Coordinator is responsible for providing information assistance to the public and local agencies, representing ADOT (Department) at public hearings and open houses, processing requests for advance acquisition, processing requests for assistance and developing supporting data on advance acquisition, preparing reports and recommendations to management.

The following is a series of events that will generally take place in acquiring parcels by advance acquisition.

- a. The Department is notified of a planned improvement to property located in the proximity of the established route plan within ¼ mile. This is known as the Red Letter Process. Notification may be the result of the owner making application for a building permit or zoning change in which case the Local Public Agency (LPA) would then notify the Department. (Red Letter Process)
- b. The property owner or his authorized representative may notify the Department directly that they are contemplating a substantial improvement and request consideration.

Typically, a response to the notice will be returned within five working days and in rare circumstances requiring more extensive investigation and research may be longer. If the notification resulted from an application to the LPA, copies of the correspondence with the property owners will go to the LPA.

- c. The request will be assigned to a Right of Way Project Coordinator who will contact the property owner and make the necessary investigation. This will include verification that the proposed development is within the corridor, an estimate of the cost to acquire, and verification of ownership.
- d. The Right of Way Project Coordinator will prepare a letter to the owner/developer forwarding the Advance Acquisition Request Form (see Exhibit 11.06) for signature and, if necessary, requesting additional support information, e.g., copies of plans to verify proposed development. The impact of the highway project on the property, i.e., a description of the area to be taken, will also be set forth in the cover letter. The Advance Acquisition Request form will also grant the Department permission to enter upon the property for the purpose of inspection and soil testing to address environmental issues. An environmental Category Exclusion for the property will be requested and conducted at this time.
- e. The Right of Way Project Coordinator will prepare a memorandum to the Right of Way Administrator or representative, outlining the results of the investigation and recommending advance acquisition. An estimate of the cost to acquire the property shall be attached to the memorandum. In addition, the working file containing the Advance Acquisition Request form will be submitted to the Right of Way Administrator for approval.
- f. The approved memorandum will be returned to the Right of Way Project Coordinator and be made a part of the working file.

- g. When the Advance Acquisition Request is approved, the Right of Way Project Coordinator will furnish copies to the owner or his authorized agent and inform the LPA if involved as appropriate.
- h. At any time after receiving the signed Advance Requisition Request form from the property owner, the Right of Way Project Coordinator may simultaneously initiate internal processing as outlined in Procedures for Internal Processing of Advance Acquisition, provided that there is sufficient evidence to expect that all necessary approvals will be granted.
- i. If the request is not approved at any stage of the process, the Right of Way Project Coordinator will write a letter to the owner explaining the reason (with a copy to the LPA, if they are involved).
- j. The following are certain requirements and conditions that generally exist in order to consider advance acquisition based on hardship:
 - 1. A request must be received from the property owner setting forth the nature of the hardship.
 - 2. Debilitating illness or injury, ambulatory or other major disability or handicap of a long-term nature, where present housing facilities are inadequate or cannot be maintained by the owner.
 - 3. Extraordinary conditions, which pose a significant threat to health, safety or welfare of the owner or a member of the household.
 - 4. Mandatory transfer of employment.
 - 5. Loss of employment.
 - 6. The necessity of closing out an estate where insufficient funds are left in the estate to adequately cover debts to the estate.
 - 7. Change of income to the extent the property cannot be properly maintained.
 - 8. Pending mortgage foreclosure, tax sales, bankruptcy, etc.
 - 9. Inability to dispose of property for a reasonable price due to the location within the corridor limits.
- k. The following procedure addresses advance acquisition of the properties based on hardship situations:
 - 1. The initial contact from the property owner is usually a telephone call or a written request indicating their interest in the Department's purchase of their property located in the proximity of an approved route plan.
 - 2. The request will be assigned to a Right of Way Project Coordinator who will contact the property owner within five days and make the necessary investigation. This will include verification that the property is within the corridor,

an estimate of the cost to acquire and verification of ownership. The two latter items can be obtained from the Appraisal Section.

3. If the owner has not furnished documentation to support the reasoning for the Department to purchase the property, the Right of Way Project Coordinator shall advise of the need for documentation, such as:
 - (a) Doctor's statement, which clearly and fully describes, from a medical viewpoint, why the patient should relocate.
 - (b) Real estate broker's certification that the subject property is not marketable and his reasons for this opinion to comply with 23 CFR 710.503(c)(2). Must provide proof of attempt to sell within the marketing time of the area, such as a copy of the listing, pictures of 'for sale' sign in yard, etc.
 - (c) Financial statement when financial difficulties are the reason for acquisition.
 - (d) Certified letter from employer when loss of employment or mandatory transfer is the reason for early acquisition.
 - (e) Court records and/or legal documents, if necessary, to support the request.
 - (f) Income tax returns.
 - (g) Any other documentation, which supports the existence of a hardship situation.

Some of the documentation furnished by the property owner may be very personal. It is to be used for documentation only and shall be returned to the property owner upon verification. Any correspondence of a confidential nature shall be retained by the Right of Way Project Coordinator as long as necessary. Personal and/or confidential information shall be protected at all times.

- I. The Right of Way Project Coordinator shall prepare a letter to the owner requesting that they sign an Advance Acquisition Request form. The Advance Acquisition Request form will also grant the Department permission to enter upon the property for the purpose of inspection and soil testing to address environmental issues on nonresidential property. The agent shall request a parcel number from the Right of Way Plans Section.
- m. The Right of Way Project Coordinator shall prepare a memorandum to the Right of Way Administrator, outlining the results of the investigation and recommending advance acquisition. An estimate of the cost to acquire the property shall be attached to the memorandum. In addition, the working file containing the Advance Acquisition Request form will be submitted to the Right of Way Administrator for approval.
- n. The approved recommendation will be returned to the Right of Way Project Coordinator and be made a part of the working file.

- o. When the Advance Acquisition Request has final approval, the Right of Way Project Coordinator will furnish a copy of the fully executed Advance Acquisition Request form and a letter of approval to the property owner.
- p. At any time after receiving the signed Advance Acquisition Request from the property owner, the Right of Way Project Coordinator may simultaneously initiate internal processing as outlined in, Procedures For Internal Processing of Advance Acquisition, provided that there is sufficient evidence to expect that all necessary approvals will be granted.
- q. If the request is not approved at any stage of the process, the Right of Way Project Coordinator will write a letter to the owner explaining the reason. All correspondence between the Department and property owner must be signed by the Right of Way Project Coordinator.
- r. Procedures for Internal processing of Advance Acquisition: The following are general procedures that apply to the advance acquisition process for both protective buying and hardship cases. The Right of Way Project Coordinator shall:
 - 1. Prepare a memo to the Right of Way Plans Section advising that the parcel has been approved for advance acquisition. The Right of Way Project Coordinator will also attach a copy of the approved request form, assessor's parcel information, case summary sheet and copy of the approved memo from the Right of Way Administrator.
 - 2. Prepare a memo to the Appraisal Section advising that the parcel has been approved for advance acquisition. The Right of Way Project Coordinator will also attach a copy of the approved request form and assessor's parcel information. This will initiate the appraisal process on the parcel to be acquired.
 - 3. Furnish a copy of the approval letter to the Right of Way Acquisition Section.
 - 4. Furnish a copy of the approval letter and a cost estimate to the Right of Way Operations Section Accounting Section.
 - 5. Upon receiving the file copy of the title report, remove all confidential material and incorporate all documentation into the file. Submit to the Records Center for permanent filing.
- s. Right of Way Project Coordinator will:
 - 1. Upon receipt of the appraisal, the Delineation package and all necessary approvals, transmit the Acquisition file with the appraisal and legal documents in the usual manner to Right of Way Acquisition Sections.
 - 2. Monitor the process of the transaction.
- t. Additional consideration of procedures for right of way purchase financing: There are additional procedures that must be followed when there is a time-payment proposal submitted for advance acquisition.

1. Proposals for acquisitions of right of way utilizing various time-payment methods or options may be initiated by the property owner or his authorized agent, although the State may suggest the use of time-payments. Processing of proposals will be the responsibility of the Right of Way Project Management Section and shall be in accordance with A.R.S. 28-7001.
 2. When considering acquisition to forestall development, as a guideline, the cost savings should be at a minimum three to one ratio of improvements to land as vacant. That is, the property after development would have a value at least three times greater than the current land value.
 3. Properties proposed for acquisition, using a time-payment method, will be reviewed with the appropriate engineering staff to verify that the property will ultimately be needed for highway construction. Eligible properties will generally be located in a project section that is not scheduled for construction in the current Five-Year planning.
 4. The current Five-Year Plan and revenue projections for additional years must reflect funds available to meet obligation requirements during the period of a time payment. All amounts due will be paid in full prior to start of construction.
- u. Additional considerations for Federal-Aid Projects: There are additional requirements that must be satisfied when there is federal participation in the purchase:
1. If authorization to proceed with preliminary right of way activities has not been approved, a letter of request with an estimate of incidental costs will be sent to the Federal Highway Administration, Right of Way accounting will furnish the estimate. If approved, the FHWA will issue a Letter of Approval and/or Project Authorization form, granting authorization to proceed.
 2. The Coordinator will request an estimate of the value of the property, the cost of demolition, and relocation costs from Appraisals, Property Management Sections and the Relocation Section.
 3. A letter setting forth the above estimates and enclosing right of way plans/or parcel plat, along with the Environmental document typically Categorical Exclusion (CE), will be sent to FHWA by Right of Way Project Management. The letter shall explain why it is in the public interest to purchase the property in written request in advance and request authorization to proceed with acquisition. Copies of the signed Advance Acquisition Request form and any supporting information furnished by the property owner will also be submitted with the request to FHWA.
 4. If the FHWA approves the advance acquisition, they will issue the form authorizing the preparation of appraisals and granting tentative approval of acquisition subject to our submitting an acceptable approach to how relocation will be addressed for the subject parcel.
 5. Right of Way Project Management will request that Acquisition Section prepare the relocation plan. When completed, it will be submitted to FHWA by Right of Way Project Management.

6. FHWA will indicate its approval of acquisition by authorizing federal participation in the purchase.

Chapter 8 Local Agency Assistance Program

8.01 Purpose

The Arizona Department of Transportation has the obligation to provide guidance and oversight to cities, counties and Indian communities in obtaining maximum utilization of available federal funding for qualifying transportation projects. The Stewardship and Oversight agreement with the FHWA requires the State to administer Federal-aid projects within the rules and regulations required by federal legislation. In fulfilling these obligations, ADOT's goal is to encourage and assist cities, counties and Indian communities to develop the capacity to administer their own Right of Way Programs in conformance with state and federal standards. (23 CFR 710.103)

8.02 Responsibilities

- a. The Right of Way Local Agency Coordinator of the Project Management Section shall maintain appropriate communication with the PDO Division Local Public Agency Section, PDO Division Project Delivery Project Managers assigned to projects, Local Government Agency, Environmental Planning Services to be thoroughly informed concerning planning, programming, development and progress for all local agency projects.
- b. In the context of this statement, a local agency generally will mean a city, county or Indian community. The term may also be applied to any other governmental subdivision or non-profit entity for which the State is required by law or contract to perform or monitor right of way services.
- c. It is necessary to recognize the complexity of right of way requirements for Federal-aid projects. Many local agencies lack adequately trained personnel to perform the necessary technical tasks and the infrequency of projects requiring right of way precludes the expenditure necessary to maintain a permanent staff.
- d. The Department recognizes its responsibility for providing guidance and oversight to the local agencies so they can accomplish the right of way needs for a given project. It is understood and required (23 CFR 710.201) that local agencies will abide by the rules and regulations required by Federal legislation.
- e. Every agency must ensure that its title 23 funded projects are carried out using an ADOT approved and up-to-date ROW manual. Use of a Real Estate Acquisition Management Plan (RAMP) must first be approved by ADOT before the development of a RAMP. Local Agencies must demonstrate that they will use FHWA approved ROW procedures and have the ability to comply with current FHWA requirements. ROW manual options can only be used with ADOT's approval and permission.
- f. Grantees, subgrantees, and their contractors for Federal-aid projects must comply with current FHWA requirements whether or not the requirements are included in the FHWA-approved ROW manual.

8.03 Prime Functions

The following are the prime functions of Right of Way Local Agency Coordinator:

- a. Assist local agencies to plan and carry out right of way acquisition for federal-aid projects in conformance with applicable federal and state laws, regulations and procedures.
- b. Monitor local agency right of way acquisition on Federal-aid projects, including all stages of appraisal, negotiation and relocation, to insure that such projects conform to federal requirements. (23 CFR 710.201)
- c. Monitor consultant right of way activities on Federal-aid or state funded projects, including all phases of negotiation and relocation, to insure that such projects conform to Federal and State requirements. (23 CFR 710.201)
- d. Preliminary Information – The R/W Local Agency Coordinator shall contact local agencies contemplating highway projects involving use of federal funds and shall furnish information to such agencies regarding federal and state laws and regulations and explain the project monitoring and compliance certification procedure early in the project development process.
- e. Training Local Agency Personnel – The R/W Local Agency Coordinator shall coordinate training of local agency personnel in right of way matters through training at the Right of Way Group State offices.
- f. Introductory meeting shall be held to:
 - 1. Review regulatory & statutory material
 - 2. Review ADOT manual parts, forms
 - 3. Establish monitoring schedule
 - 4. Schedule progress meetings and delivery of status reports
 - 5. Establish Milestones at which to conduct evaluation of consultant (30%, 60%, 95%, Final)
- g. Qualification – The R/W Local Agency Coordinator shall inform local agencies of standards and procedures necessary to qualify right of way personnel and shall assist such agencies in becoming qualified to be engaged in their right of way activities and oversee activities of their right of way consultants. (23 CFR 710.201)
- h. Certification – The R/W Local Agency Coordinator shall report such information as is required for a Certification of Right of Way Compliance.
- i. Procedures – The R/W Local Agency Coordinator may prepare sample forms for the guidance of local agencies. Subject to approval of the Right of Way Administrator, the R/W Local Agency Coordinator may issue procedures for accomplishing Federal-aid right of way activities by local public agencies. [23 CFR 710.210(b)]

8.04 Responsibilities of Organization

Primary responsibilities of organizations covered by these procedures include:

- a. Federal Highway Administration – This agency has the responsibility for administering the Federal-aid Highway Program. They must be assured that the appropriate procedures and laws were complied with on any project on which federal funds participate. ADOT will provide the required compliance assurances to FHWA. [23 CFR 71.201(a)]
- b. Arizona Department of Transportation – The Department has the responsibility for administering the transportation needs of the State. It also has the responsibility for coordinating the Federal-aid Program for local agencies. As part of this coordination, the Department must review the right of way work done by the local agencies, review random sampling to confirm compliance and provide compliance assurances to the Federal Highway Administration. (23 CFR 710.201)
- c. Right of Way Group – This group has the responsibility for the Department's acquisition of all property rights required for construction of state highway projects. It also has the responsibility for certifying right of way on all projects that are reimbursed in whole or part with federal funds. Therefore, this section must become involved in all local agency projects that are funded with federal funds.
- d. Local Agencies – Are government agencies or legal entities that enter into an agreement with ADOT to carry out part or all of the activities funded by title 23 grant funds. The local agencies have the responsibility of performing right of way activities in conformance with federal laws and regulations. Acquiring agency shall be adequately staffed, equipped and organized to discharge its real property related responsibility. [23 CFR 710.201(b)]

8.05 Summary of Activities

A brief summary of activities performed by the Right of Way Group is given below. Actual activities performed vary depending upon the specific nature of a subject project.

- a. Information Sharing – The Right of Way Group has a duty to make known to all agencies the specific requirements for the various types of projects. With this information service, the Group has an obligation to assist other agencies in becoming educated in the proper procedures to be utilized in the appraisal, acquisition, relocation and property management functions that are required on all federal-aid highway projects.
- b. Qualification – The Right of Way Group has the responsibility for advising local agencies how they can become qualified. It has responsibility for the review of these agencies procedures to determine if they can be qualified to administer their right of way program and the review of their assurance statements for adequacy.
- c. Monitoring – The Right of Way Group is obligated on certain projects to review other agencies work to determine whether appropriate procedures have been followed. This is to assure that federal funds will not be lost by these agencies. Where a consultant is employed by a local agency to perform right of way activities, their work must be reviewed / monitored to assure compliance with state and federal laws and regulations.

- d. Certification – The Right of Way Group is required to certify local agency projects where Federal Highway Administration funds participate in project costs. This certification contains statements as to the rights of way acquired and procedures followed. (23 CFR 635.309 and 710.103)
- e. Planning – The Right of Way Group should assist local agencies in planning their projects. This assistance is particularly necessary in regard to establishing proper lead-times for projects.
- f. Compliance Assurance – The Right of Way Group must establish specific means to enforce compliance with legal and policy requirements by local agencies. This is necessary to insure that federal funds are not lost.
- g. Supervision of Other Personnel – From time to time the R/W Local Agency Coordinator may request assistance in monitoring a specific function. The Project Management Section Manager will coordinate work of personnel assigned to perform monitoring duties.
- h. Legal basis for Providing Right of Way Services and Monitoring – Right of Way services and monitoring will be accomplished in accordance with applicable federal and state laws and regulations.

Chapter 9 Local Agency Qualification Procedures

9.01 Purpose

The purpose of this chapter is to present qualification procedures to be followed by the Arizona Department of Transportation in working with local agencies.

9.02 Qualification Process

Qualification is the process whereby ADOT approves the local agency's ROW policies and procedures for the right of way acquisition. ADOT is authorized to exercise this approval pursuant to Title 23 CFR 710.201 (a) & (h). Qualified Status allows the local agency to perform acquisition-related activities for Federal-aid projects.

9.03 Qualification Procedures

In order to be qualified, each local agency must submit a request for an evaluation of its right of way qualifications and procedures.

- a. The ADOT R/W Local Agency Coordinator will:
 - 1. Arrange a meeting with the local agency and explain state and federal requirements and methods to be utilized by the local agency in obtaining qualification.
 - 2. Advise the local agency that they may adopt the State's FHWA approved ROW policy and procedures or demonstrate that they will use the FHWA approved ROW procedures for acquisition and other real estate related activities and that

they have the ability to comply with current FHWA requirements per 23 CFR 710.201(d).

3. Advise the local agency that they will be subject to monitoring to insure conformance. It should be stressed that failure to conform to accepted policies and procedures could result in loss of reimbursement for all or part of a project.
- b. When the local agency desires to be qualified for Relocation Assistance Program work, the R/W Local Agency Coordinator will evaluate the agency's procedures and staff.

9.04 Post Qualification Procedures

- a. Due to possible changes of personnel within local agencies and various changes in federal and state laws and requirements, a review of all qualified agencies must be made periodically to determine if their staff and procedures are still adequate to perform in conformance with state and federal requirements. At the time of review, the local agencies can also be made aware of any changes in policies or procedures made since the date of the previous review.
- b. Local agencies that have not utilized their qualification in an extended period will be reviewed prior to their starting any new projects.
- c. Local agencies are required to notify the Right of Way Local Agency Coordinator of any policy changes affecting the procedures under which they were qualified.
- d. In the event a local agency is unable or unwilling to correct discrepancies or perform in accordance with their approved policy and procedure, an appropriate notice shall be directed to the agency informing them that they may lose their status as a qualified agency. Subsequent to this notification, if a local agency is still unable or unwilling to conform its procedures, a notice shall be directed to the agency informing them that they are no longer qualified to acquire right of way for federally funded projects. Changes in personnel within a consultant organization that is employed for the purposes of providing any of the various right of way services shall be addressed with the Right of Way Group. A review of those personnel changes and approval of those individuals shall be made prior to their beginning work on any of the contract services.

9.05 Monitoring

Monitoring or review of local agency right of way work is the process whereby ADOT assures that the local agency right of way practices are in accordance with applicable federal regulation and provide the documentation for certification. It will be State policy to monitor all local agencies highway projects whenever Title 23 federal funding is included in any phase of such projects.

9.06 Monitoring Process

- a. Monitoring procedures cover the following elements:
 1. Concept Design Report – Upon receipt of a Concept Design Report, the Local Government Roads Section will forward a copy of the Right of Way portion for use by the Right of Way Local Agency Coordinator. The Coordinator will contact

the local agency, explain the monitoring program and offer assistance in right of way planning and field review to identify and minimize potential problems. Following the initial contact, the local agency should notify the RW Local Agency Coordinator at each stage of right of way activity so a review can be made. The Coordinator shall maintain close communication with the local agency and shall conduct monitoring reviews or coordinate such review by functional representatives.

2. Functional areas to be monitored include the following:

- (a) Right of Way Survey
 - (b) Right of Way Delineation
 - (c) Right of Way Plans
 - (d) Appraisal
 - (e) Acquisition
 - (f) Relocation
 - (g) Property Management
- b. Number of parcels to be monitored – The number of parcels monitored on a local agency project will be determined by the Right of Way Local Agency Coordinator. If any agency has a good record and minimum monitoring reveals no substantial variance with applicable regulations, no further monitoring on the project is needed. If the agency has a poor record or the amount of monitoring accomplished reveals substantial non-compliance or repeated error, further monitoring should be done on all parcels.
- c. Degree of Monitoring – Monitoring should be sufficient to insure that the overall federal and state procedures are met. The specific details may be reviewed only to the extent they affect the product. This means that general procedures will be in compliance without necessarily being the same as those used by the State. The monitoring will be based on conformance to the procedures submitted by the agency in becoming qualified. ADOT Acquisition and Relocation Manuals may be provided for use if directed by Right of Way Local Agency Coordinator.
- d. Monitoring by function – The review shall be on a continuous basis to insure that each right of way function is performed properly. This will insure that the local agency or consultant will have sufficient time to take corrective action at the proper stage. The review shall include an examination of all major functions involved in the right of way acquisition. The primary emphasis of this monitoring will involve plans, appraisal, acquisition, and relocation assistance. When the certification is obtained based on Right of Entry or an Order for Immediate Possession, the monitoring shall continue until all rights have been acquired.
- e. Monitoring Documentation – A compliance check sheet, relating to the specific right of way function being monitored, will be completed for each parcel selected for review and retained in the project file. Information on any work required correction shall be communicated in writing to the local agency with follow up procedures to insure that the correction has been accomplished.
- f. Monitoring Information and Education:

1. Information – The Right of Way Local Agency Coordinator will notify all local agencies of the specific requirements that apply to acquisition of rights of way on federally funded projects. The notification will be in sufficient detail and form as to assist local agencies to properly interpret state and federal requirements. The local agencies will be informed that the State will provide necessary assistance to them in order to understand or implement the proper procedures.
2. Education – One of the goals of monitoring is to educate the local agencies. As the agency performs right of way functions in close liaison with the State, they will gain expertise and knowledge of the specific procedural requirements.

9.07 Certification of Compliance

- a. Following completion of right of way plans, acquisition, relocation and site clearance, the local agency will complete a Right of Way Certification and return it to the Right of Way Local Agency Coordinator, certifying that right of way has been acquired and relocation has been performed in accordance with applicable Federal and State laws. (23 CFR 635.309)
- b. The Right of Way Local Agency Coordinator to Endorse – The Coordinator will, by endorsement or memo addressed to the ADOT Project Manager, indicate approval or disapproval of the local agency certification. Prior to the Coordinator's approval, all conditional certifications must first be concurred with by the Federal Highway R/W Officer. If then disapproval is recommended, the coordinator shall prepare a letter addressed to the appropriate local agency official stating the reasons for the disapproval.
- c. Approved Certification Forwarded – After the local agency certification is approved by the ADOT Local Agency coordinator, an appropriate certification will be prepared and submitted to the ADOT Project Manager. The ADOT Project Manager will include the certification in the PS&E package submitted to the FHWA through Division channels.
- d. Deficient Certification Returned – In the event deficiencies are found resulting in denial of certification, the Right of Way Local Agency Coordinator will submit an appropriate letter to the local agency notifying them of such denial and enumerating the deficiencies. The Right of Way Local Agency Coordinator will then contact the local agency and offer to assist in correcting those deficiencies.

9.08 Distribution of Directives

The R/W Local Agency Coordinator will distribute, to appropriate local agency officials, copies of applicable laws, regulations and directives.

Chapter 10 Monitoring Procedures for Consultants

10.01 Purpose

The purpose of this chapter is to present monitoring procedures to be followed by the Arizona Department of Transportation when working with private Right of Way consulting firms.

10.02 Monitoring

Monitoring is the process whereby ADOT assures that private consultant right of way practices are in accordance with Federal regulations and ADOT policies and procedures. It will be Sate policy to monitor all private Right of Way consultant contracts.

10.03 Monitoring Procedures

Monitoring procedures cover the following elements:

a. Pre-qualification Considerations

1. ADOT will verify consultants past successful experience. This will allow the agency to develop a realistic appraisal of the consultants past work history for similar projects.
2. ADOT will investigate current projects the consultant is involved with in order to make a realistic judgment as to the availability of skilled management and staff.

b. Pre-project Indoctrination

1. ADOT will hold a pre-project orientation meeting with the consultant to identify the scope of the project, the type of Right of Way functions to be performed and to explain goals and expectations as well as monitoring procedures.
2. ADOT will provide the consultant with current ADOT policy and procedure information and will brief the consultant on ADOT philosophy concerning interpretation of the Uniform Acquisition and Relocation regulations.
3. ADOT will acquaint the consultant with standardized ADOT documents and forms and will provide a sample packet for the consultants use.

c. In-Service Coordination

This Section is responsible for monitoring those functions for which the Right of Way Group has contracted: including but not limited to plans, acquisition and relocation activities. Monitoring functions will be performed on a continuous basis to insure that the work is properly performed. Monitoring functions include the following:

1. Reviewing all acquisition packages submitted for payment.
2. Reviewing all relocation claims submitted for payment.
3. Reviewing all relocation parcel files for finalization.

d. Monitoring Documentation – Information on any work that requires correction shall be communicated in writing to the consultant with follow up procedures to insure that the correction has been accomplished. Changes in key personnel within a consultant organization that is employed for the purpose of providing any of the various right of way services shall be addressed with Right of Way Group and noted by Section personnel as to the affect on the contract.

e. Consultant Evaluation

- f. The consultant evaluation program is a vehicle to maintain the lines of communication between the Consultant Liaison Section and the consultant. A positive approach to the consultant evaluation program assures that:
1. Project completion dates are attainable
 2. Potential problems that may impact a project are resolved in a timely manner.

The consultant evaluation program is designed to be reciprocal. The consultant is evaluated at major milestones during the life of the contract and consultant has the opportunity to evaluate the Consultant Liaison Section. Generally, evaluation will begin 30 days after the consultant receives the acquisition or relocation assignment. Additional evaluations will be performed at the midway point of the project and again when the contract is completed. All evaluations will be in writing and retained in the project file.

Chapter 11 Exhibits

The following Exhibits are intended for reference purposes. Some of the Exhibits have been reduced in size in order to include them in this manual. [Click Here](#) to view the Exhibits.

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