



2015 Recertification Acceptance Agreement



ARIZONA DEPARTMENT OF TRANSPORTATION

Certification Acceptance Academy for Local Public Agencies

Right of Way Acquisition Process on Projects with Federal Aid

Presentation by:

Louis Malloque and Matt Tolman

March 5, 2015

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Please refer to the **ADOT Right of Way Manual** at:
www.azdot.gov/highways/row/project.asp

and

<http://www.fhwa.dot.gov/realestate>

Certification Acceptance Academy

Right of Way Acquisition Process on Projects with Federal Aid

Right of Way Training by ADOT:

The result of over 25 ADOT Workshops and several Audits of LPA's over the past several years:

ADOT has seen a great number and variety of compliance issues in the Right of Way acquisition process of Federally Funded projects. These issues cover everything from starting acquisition too soon, to the procedures for relocation.

We have designed this training to provide an overview of issues that can result in the denial of Federal Funds.

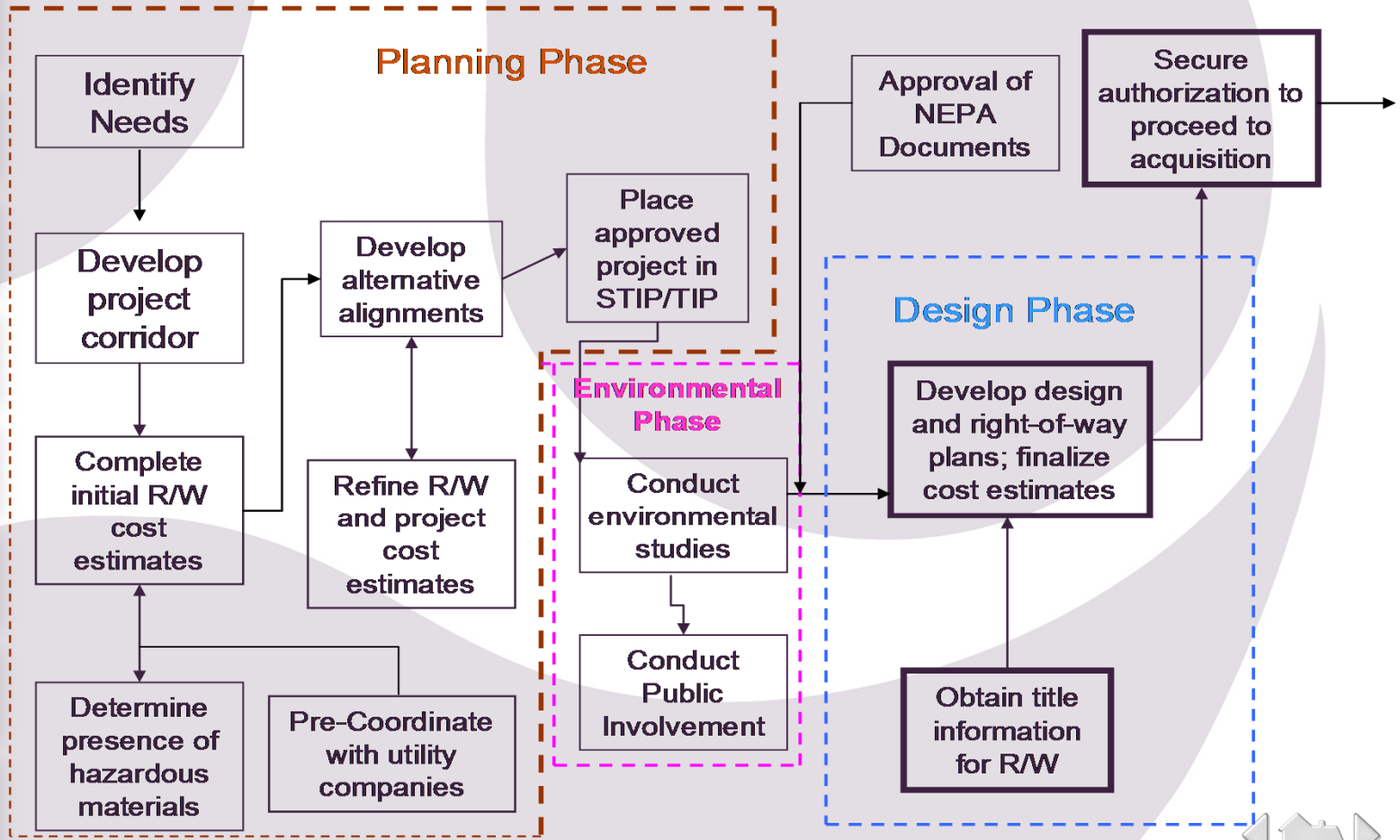
Please feel free to ask questions during and after this training

FIVE BASIC PHASES TO A PROJECT

1. Planning Phase:
2. Environmental Phase:
3. Design Phase:
4. Right of Way Acquisition Phase:
5. Construction Phase and Project Management:

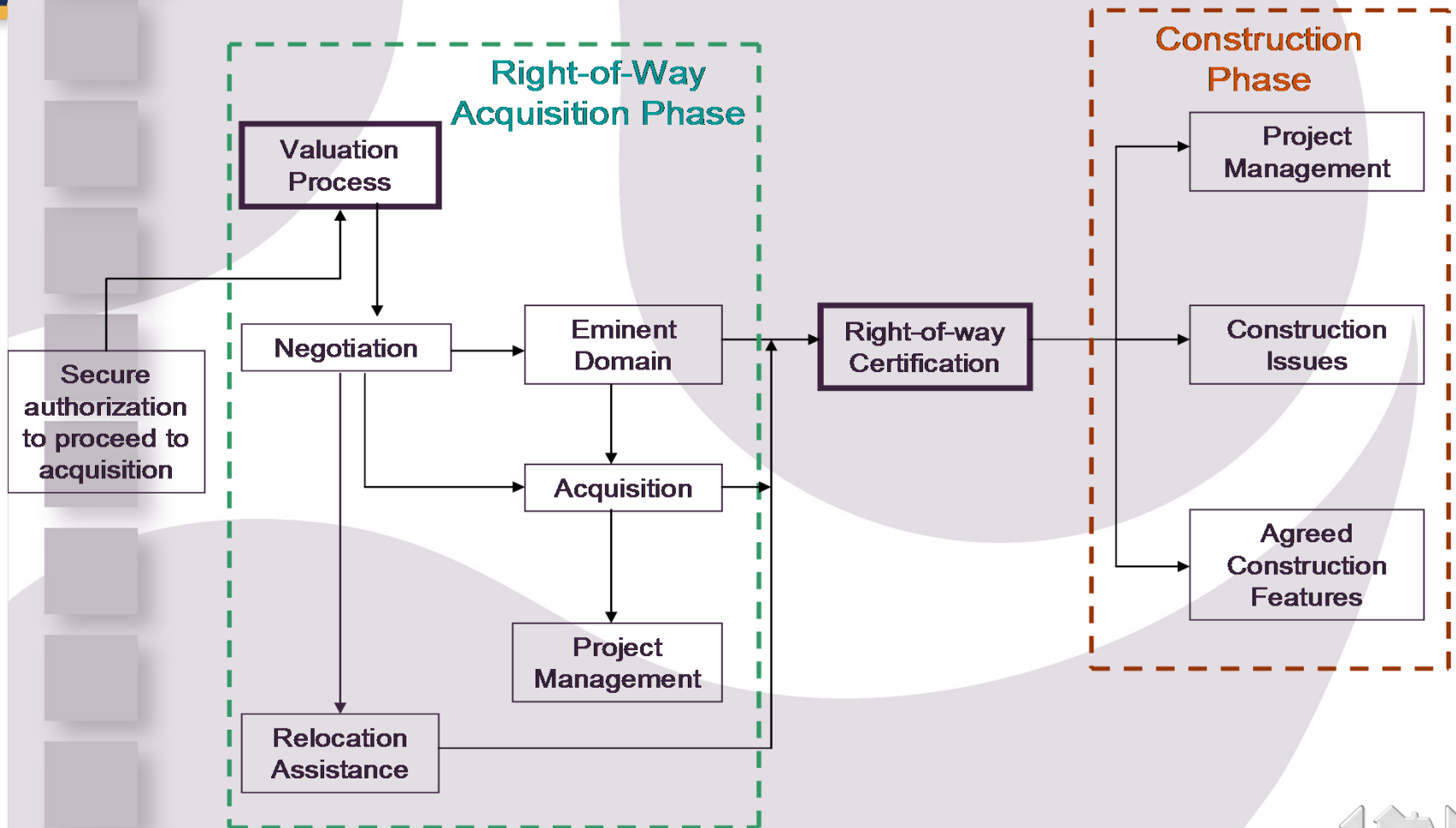


Project Development Activities





Project Development Activities (Cont'd)



STEPS IN THE RIGHT OF WAY PROCESS

1. Environmental Clearance:

2. Obtain ATP:

Authorization to Proceed with Right of Way
AZPR2X

3. Appraisals:

Order
Review
Just Compensation

4. Prepare Offers:

Present
Obtain Signatures

5. Request Right of Way Clearance:

BASIC REQUIREMENTS OF THE ACQUISITION:

- 1. Environmental Clearance.**
- 2. FHWA “Authorization to Proceed” for Right of Way.**
- 3. Appraisal and Appraisal Review**
- 4. “Just Compensation”.**
- 5. Personal contact with property owner.**
- 6. Written Offer of what is believed to be “Just Compensation”, derived from the Appraisal Review;
with the Summary Statement attached or incorporated in the offer letter.**

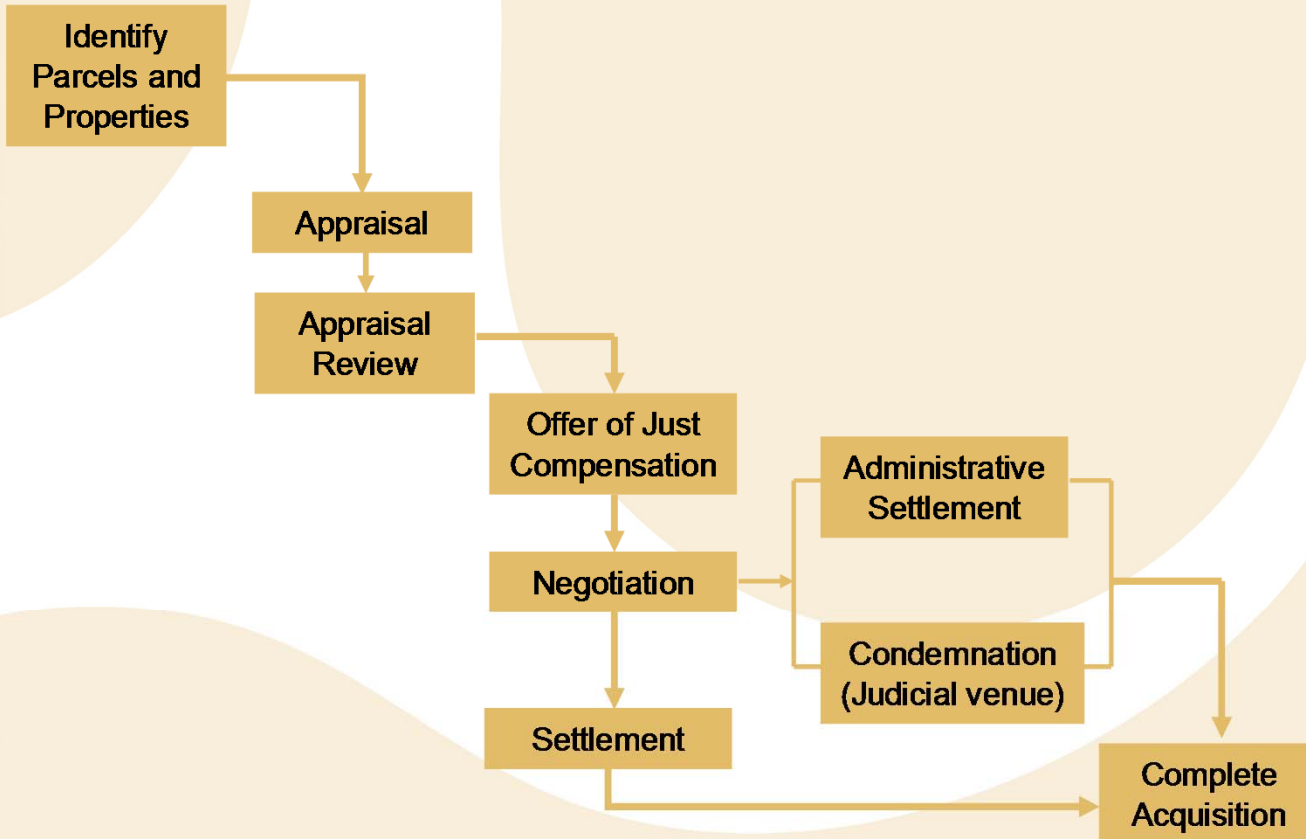
BASIC REQUIREMENTS OF THE ACQUISITION (cont'd)

- 7. Time to consider offer (Federal Regulations state minimum 30 days).**
- 8. All activities shall be conducted in a non-coercive manner.**
- 9. Provide at least a 90 days notice to vacate property ...
simultaneously, replacement housing package must be presented (90 days prior to moving).**
- 10. Pay the agreed upon price.**

Please contact your ADOT Right of Way Coordinator if/when you need more information.



Steps in Land Acquisition



ACQUISITION PROCESS

1. Planning

2. Appraisals

3. Acquisition

4. Relocation Process

Residential and Non-Residential (Business)

5. Property Management

THE APPRAISAL PROCESS



Definition of an Appraisal

“A written statement, independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.” [Title 49 CFR 24.2(a)(3)]



Fifth Amendment to the U.S. Constitution

"No person shall be deprived of life, liberty or property, without due process of law. Nor shall property be taken for public use without just compensation"

U.S. Congress

Uniform Relocation Assistance and Real Property Acquisition
Policies Act of 1970 (Uniform Act)

APPRAISAL / JUST COMPENSATION

1. Authorization to Proceed with Right of Way from FHWA
2. State Certified General Appraiser
3. Minimum Scope of Work
4. Appraisal Review
Shall not be the same firm
5. LPA approves what they believe to be Just Compensation

OFFER

- **Written Offer**
- **Include a Summary Sheet**
- **Break Down of Offer**
- **Location of Property**
Legal Description of Property
- **Identify Improvements Being Acquired**
- **30 Days to Consider Offer**

* **No Coercing Property Owner to make a settlement**

INAPPROPRIATE / COERCIVE STATEMENTS

“If you go to trial, we’ll have to reduce our offer”

"You have 24 hours to think about this and then we are preparing the condemnation papers”

“If you don’t settle, we may need to have a code inspector come through here and check this property more closely”

“If the project gets too expensive, the county may have to look at tax assessments here”

Note:

Soliciting Donations from property owners is considered coercion

NO AGREEMENT REACHED

1. Administrative Settlements

Require approval

2. Eminent Domain / Condemnation

Judicial Process / Courts Determine Just Compensation

Note:

Upon acceptance of Federal funds, the LPA agrees to Eminent Domain / Condemnation, when no agreement can be reached

ALTERNATIVE WAYS TO ACQUIRE PROPERTY

1. Donations*

Gift of Property

Notify Owner of their Right to an Appraisal

Sign Waiver of Compensation for project

2. Donations in Exchange for Construction Features

3. Dedications*

Subdivision Plat, Commercial Development, Re-Zoning

Ordinance that Identifies Procedures

Applied Consistently

4. Incorporation of LPA owned land*

5. Project credits

Land Acquired in Advance of a Project

* **Note:** Items 1, 3 and 4 may be eligible for total or partial credit toward the non-federal match.

RIGHT OF WAY CERTIFICATION:

- A Right of Way Certification form is prepared upon completion of the acquisition of all of the parcels required for the project.
- The completed certification form is transmitted to the Project Manager.
- The Project Manager then sends it to the ADOT R/W Coordinator.
- The ADOT R/W Coordinator then writes a Right of Way Clearance letter (for non CA LPA's) and sends it to the ADOT PM
- ADOT PM then distributes it to all who should receive a copy.

When a project does not require any new right of way ...
the Right of Way Certification form and the Right of Way Clearance letter
may be completed at the ninety to ninety-five percent (90 - 95%) design
stages. (23 CFR 635.309 (c))

RELOCATION:



A Good Relocation Program Has A Logical Balance of Payments and Services

The Current Balance Between Payments and Services



Both Payments and Services are Required by Law and Regulation.



Overview of the Process

- LPAs must provide relocation advisory assistance and services.
- Residential occupants cannot be forced to vacate until comparable housing is made available.
- Relocation programs consist of four key steps:
 - ◆ Planning relocations.
 - ◆ Issuing notices.
 - ◆ Providing advisory services.
 - ◆ Making benefit payments.

A RELOCATION PLAN SHOULD INCLUDE:

1. An Estimate of the Number of Displaced Households

- A. Owners/Tenants Status
- B. Estimated Values
- C. Family Characteristics
- D. Impact to Minorities, Elderly and Large Families
- E. Impact to those with Disabilities

2. An Estimate of Comparable Housing

3. An Estimate of Number, Type and Size of Businesses, Farms, Non-Profit Organizations

4. An Estimate of the Availability of Replacement Business sites

5. Consideration of any necessary special Relocation Advisory Services

RELOCATION NOTICES:

There are three (3) relocation notices necessary under the Uniform Act

1. General information notice

- A. Notice of pending displacement and benefits
- B. Reasonable relocation advisory services
- C. 90 day notice before moving
 - One comparable must be ready
- D. Unlawful person or alien not eligible for relocation benefits
- E. Right to appeal relocation decision

2. Notice of eligibility

3. Ninety (90) day notice

REAL PROPERTY MANAGEMENT:

(49 CFR 23.710.401 & 403)

Property Management is the Administration of Acquired Lands and Improvements, including:

1. Maintenance and Protection

2. Rental and Leasing

3. Disposal of Property no longer needed

Disposal of property no longer needed for the project, such as excess parcels, remnants, old right-of-way and structures for salvage.

If property is not needed immediately, it can be used to produce income. Income / Revenue **shall** be applied to Title 23 Eligible Projects.

ADOT Right of Way Training Quiz

1. Are Temporary Construction Easements considered New Right of Way ?
Why / why not ?
2. What is the minimum number of days you must give the property owner to consider the offer ?
3. When can you begin right of way acquisition ?
4. “If you do not accept our offer in 20 days, we will file condemnation proceedings” ... is this an example of coercion ?
5. If you have a small portion of land and it is simple and non-complex, what kind of valuation may you use? ...
What dollar (\$) amount ?
6. While you wait for your environmental clearance what, if any, right of way function(s) may you start ?

ADOT Right of Way Training Quiz (cont'd)

7. What items should you give the Appraiser when you hire them ...
Review Appraiser ?
8. An appraisal is an _____?_____ of the market value of the property and not the market value.
9. How many days notice must you give a property owner before you make him move ?
What must you have at the same time as the notice ?
10. Must the appraiser ask if the property owner wants to accompany him on the appraisal ?
11. What kind of an appraiser must you use? ...
Review appraiser ?
12. Who establishes what they believe to be “Just Compensation” ?
13. What are the six (6) MAIN requirements in acquisition ?

ADOT Right of Way Training Quiz (cont'd)

14. What two (2) things MUST you have prior to the start of the acquisition process ?
15. Can you add the relocation amount into the acquisition settlement amount ? ... Condemnation ?
16. Name the three (3) kinds of relocation notices you must give the property owner ?
17. What are to two (2) types of Advance Acquisition ?
18. Must you use a contact log/diary on all acquisitions ?
19. Does the contact log/diary need to be concise?
If not, then what must it be ?
20. Is personal contact necessary on making an offer to acquire ?
If not possible, what must you do ?
21. Do you need to have a Relocation Plan ?

ADOT Right of Way Training Quiz (cont'd)

- 22. What should a Relocation Plan have ?
- 23. What two (2) things must you provide in relocating property owners ?
- 26. How many years must the appraisal go back regarding ownership ? ...
Title reports ?
- 24. What are the four (4) key steps in the relocation program ?
- 25. What must an offer letter have with it ?
- 27. What must a comparable house be that a relocated person moves into ?
- 28. What are the five (5) phases to a project ?
- 29. At what point does a project become federalized ?
- 30. How long must you keep Federally Funded files ?

When in doubt or in need of assistance, please contact:

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or

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Phoenix, Arizona 85007

The FHWA approved ADOT Right of Way Manual can be found at:
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Any Questions or Comments ?