

Stewardship and Oversight Agreement on Project Assumption and
Program Oversight by and between Federal Highway Administration,
Arizona Division and the Arizona Department of Transportation

Executed April 2015

...”This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the State of Arizona Department of Transportation (ADOT) on the roles and responsibilities of the FHWA and the State DOT with respect to Title 23 project approvals and related responsibilities...”

Title 23 United States Code (USC) does not recognize local entities as direct recipients of Federal funds...

Through the Certification Acceptance Program, certified Local Public Agencies (LPAs), known as Certification Acceptance (CA) Agencies, are authorized to independently manage most aspects of the project development process with ADOT's approval and FHWA concurrence. The Certification Acceptance Program requires CA Agencies to have the capability, experience, and resources to develop and administer projects according to all applicable agency, state, federal, and tribal laws, regulations, and requirements.

Under the agreement, ADOT is required to provide adequate oversight of sub-recipients including oversight of any assumed responsibilities ADOT delegates to a LPA.

Right-of-way (ROW); Local Public Agency Projects Manual, Chapter 10 The ADOT ROW Group oversees the ROW process and clearances for LPA projects under CA and SA. LPAs must follow the procedures included in Chapter 10 if federal-aid funds are used for any part of the LPA project, whether or not those funds are used for ROW activities.

It is understood that completing the assessment questions on this checklist does not equate to an approval for self-administering Right-of-Way (ROW) activities. ADOT will retain oversight of ROW activities and approval/concurrence for ROW clearances is still required. Please check yes to agree:

<input checked="" type="checkbox"/>	Yes
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Assessment Questions

Question	Y/N	Document, Page, Paragraph <i>(To be completed by CA)</i>	Check if changed since 2019 <i>(CA to complete)*</i>	Item of Concern <i>(SME use only)*</i>
What is your process on training ROW staff on managing federally funded ROW projects?				
Which of the following ROW manuals will your agency adopt:				
ADOT ROW manual ? If so, please provide a letter signed by the Designated Approval Authority stating that the Agency adopts the ADOT ROW manual.				
CA Agency ROW manual? If so, please provide the manual for approval (approval for content and regulatory compliance not the approval of process or the authority to complete ROW activities).				
If the Agency uses its own ROW manual, has it been updated to reflect changes created by updates to Title 23 Parts 635, 710 and 810? Please indicate and document all changes.				

Question: ... “in 2019 [we] adopted the CA Agency ROW Manual option, if we opt for the ADOT ROW Manual in 2024 - what would this transition entail in terms of ROW processes?”

Answer: There is only one FHWA-approved ROW Manual at ADOT, There is **NOT** a separate CA ROW Manual. This is the manual ADOT ROW has always followed. So there would be no change from ADOT’s perspective.

If the Agency chooses to submit their own ROW for review and approval, it will be evaluated based on a comparison with the FHWA-approved ROW manual.

<p>Is the Agency adequately staffed, equipped and organized to discharge all its real property related responsibilities as per 23 CFR Part 710.201 (b)? Please provide a current organizational chart for all areas that directly involve ROW. Additionally, provide a job description for those agency employees involved in ROW activities as defined in ARS 32-2121(A)(7).</p>				
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Question: Will we be required to provide Right of Way Agent job descriptions? Is an organizational chart required? Are these federal requirements?

Answer: Yes, Yes, NO - We are requesting the information to make a determination to ensure that the agency is adequately staff, has knowledgeable people to carry their real property interest responsibilities

<p>Does the Agency have a property management section that maintains records of Real Property Interest, acquired and disposed of in accordance with Title 23 funds, and is the management process spelled out in ROW manual?</p>				
<p>Does the Agency submit to the ADOT ROW Group a request for concurrence of Right of Way clearance prior to advertising a project for construction noting that one of four conditions have been met per 23 CFR Part 635.309?</p>				
<p>Does the Agency submit to the ADOT ROW Group all conditional Right of Way clearances for approval and concurrence by FHWA prior to advertisement of all federal aid projects?</p>				

<p>Does the Agency request property donations from non-governmental owners whose Real Property Interest is required for Title 23 projects? If “Yes,” does that donation meet the requirement per 23 CFR 710.505(a)?</p>				
<p>Does the Agency submit all administrative settlements to the ADOT ROW Group for concurrence before finalizing them with a property owner as part of the program oversight responsibilities?</p>		<p><i>Anything over and above the offer of just compensation is considered an administrative settlement.</i></p>		
<p>Does the Agency avoid contact with an affected property owner for purposes of negotiation and relocation assistance until after NEPA approval, except as provided for in 23 CFR 710.501 and 710.503?</p>				

<p>Does the Agency perform acquisition and related relocation assistance activities in accordance with 49 CFR Part 24 and 23 CFR 710?</p>				
<p>Is the amount the Agency believes to be just compensation for a Real Property Interest approved by a responsible official of the Agency?</p>				
<p>Does the Agency provide a person, affected by a project, with a written description of the Real Property Interest acquisition process under state and federal law, which clearly informs the owners of their rights and obligations?</p>				

<p>Does the Agency include the preparation of right of way plans in their Federal Aid projects (CFR or Statute reference)? If no, how does the Agency depict real property acquisitions for their project personnel, appraisers and project impact communication with the property owners?</p>				
<p>Does the Agency maintain a written log/diary (contact report) of each and every contact with the property owner including the agency acquisition person who contacted them, date of contact, person contacted, matters discussed and any and all outcomes in sufficient detail that if another agent/negotiator had to take over, a new agent could continue as if they had worked on the parcel assignment all along and that it would reveal the acquisition/relocation was accomplished in accordance with the federal guidelines?</p>				
<p>At what stage in the design process does the Agency involve their ROW/Real Estate Department in planning for the scheduling and delivery of necessary ROW to maintain project schedule for delivery (30%, 60%)?</p>				

Question: How long will the review/approval process take once submitted to ADOT?

Answer: Short answer is that it will depend on if you are going to be adopting and using the FHWA-approved ADOT ROW manual or submitting your own. If the agency submits their own ROW manual it will depend on how complete and if it contact the same section as the FHWA-approved ADOT Row manual so they can be easily compared.

Question: Is the requirement for the on calls to be licensed Real Estate a federal regulation?

Answer: We have been asked by FHWA about requirement we have and a section has been added to the FHWA-approved ADOT ROW manual addressing the issue. We are required to comply with both Federal and state laws. The Arizona Department of Real Estate (ADRE) has indicated what activities require a license. A.R.S provides for a government exemption as only as certain condition are met. The individual must be an employee and it must be a part their primary responsibilities. Can not be a temporary employee or a contractor for the exemption to apply.

Questions