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## **200.00 PROJECT DEVELOPMENT PROCESS**

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### **200.60 RIGHT-OF-WAY**

The CA Agency's ROW agent prepares the ROW plan, administers appraisal, relocation, and acquisition activities (if needed), and prepares the ADOT Real Property Interest - ROW Certification Form. The CA Agency must determine during pre-planning if Real Property Interest/ROW activities, including acquiring property rights including temporary or long-term easements, are required for the proposed construction of a FHWA project. CA Agencies must demonstrate that they have the ability to comply with current FHWA requirements.

For projects requiring new ROW acquisition for which reimbursement of federal-aid funds for ROW activities will be requested, the CA Agency must have federal authorization for ROW activities and ADOT's notice to proceed before those ROW acquisition activities may begin. Before submitting the request for ROW activities, the CA Agency must have NEPA approval. Regardless of the funding source, Real Property Interest/ROW acquisition(s) will comply with the Federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. § 4601 *et seq.*), as amended, and 23 C.F.R. Part 710 and 49 C.F.R. Part 24 (Uniform Act). According to 23 C.F.R. § 710, ADOT shall have overall stewardship and oversight responsibility for the acquisition, management, and disposal of Real Property Interests on Federal-aid projects, including when those projects are carried out by ADOT's subgrantees or contractors. This responsibility includes ensuring compliance with the requirements of Part 710 and other Federal laws, including regulations.

The federal authorization request packet for right-of-way includes:

- CA Agency authorization request letter
- Current MPO TIP and STIP pages (showing the project name, funding year, and funding source)
- NEPA approval
- Project location/vicinity map
- ROW plan
- Title report (parcel and ownership information)

For projects with federal-aid funds in any part of the project, the CA Agency must conduct ROW activities in compliance with the FHWA-approved *ADOT Right-of-Way Procedures Manual* or the CA Agency's own ROW procedures manual that has been reviewed and approved by ADOT for federal aid projects. A CA Agency ROW Manual can only be used with ADOT's approval and permission. This requirement can be accomplished through one of the following ROW Manual approval methods:

- Certification in writing from the CA Agency, that they will adopt and use the FHWA-approved ADOT ROW Manual.
- CA Agency's own ROW Manual may be submitted to ADOT for review and determination of its compliance with Federal and State requirements. Following an approval of the ROW Manual, the CA Agency will certify in writing that they will follow the approved ROW Manual.

After the Real Property Interest acquisition(s) are complete and before advertisement, the CA Agency must submit the Real Property Interest - ROW package and clearance letter to the ADOT PM to obtain verification and concurrence from the ADOT ROW Group. Any deviation from these procedures must have ADOT approval with FHWA concurrence. If any Real Property Interest is acquired in advance of the project authorization, those Real Property Interests must be compliant with the Uniform Act and the FAHP.

If all Real Property Interest(s) have not been fully acquired before the request for federal authorization for the advertisement for receipt of bids for construction, the CA Agency must submit a request for conditional clearance to the ADOT PM to obtain approval from the ADOT ROW Group Project Management's Section and concurrence of FHWA. The CA Agency must not advertise until the ROW acquisition process is complete and has received full clearance unless ADOT ROW Group Project Management Section has approved and FHWA has concurred with a conditional ROW clearance.

In accordance with ADOT's *Requirements regarding Right-of-Way Acquisition by Local Public Agencies on Federal Aid Projects*, all FHWA projects with Real Property Interest acquisition(s) require oversight and records inspection by the ADOT ROW Group Project Management's Section throughout project development to ensure compliance with federal and state laws and regulations. The CA Agency must maintain ROW records according to the General Records Retention Schedule Issued to All State and Local Agencies Administrative and Management Records (revised 8/26/2016), except as otherwise expressly provided. Under certain circumstances, FHWA may request a longer period. The ADOT ROW Group will conduct reviews of the CA Agency's ROW recordkeeping activities.