

# Clearance

## Right of Way

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# Right of Way Clearance, What Is It?

Simple put, it is a statement that says that all real property interest have been acquired and that you have the legal right to possession, occupy and use the property.

That when necessary all individual and families have been relocated to decent, safe and sanitary housing or that the state has made adequate replacement housing.

# Why Is It Important?

The **Right of Way Clearance** is one of the requirements that needs to be met under 23 CFR Part 635.309 to proceed to advertise for physical bids for construction or with forced account construction.

# So What Are We Certifying Too?

One of three conditions:

- 1) That **all** necessary ROW including control of access when necessary has been obtained including legal and physical possession. When there are trials or cases pending that legal possession has been granted by the court.
- 2) Although all necessary ROW **has not been** fully acquired, that the right to occupy and use all ROW for the proper execution of the project has been acquired. This mean that there may be cases pending in court but the right to possess, occupy, that all occupants have vacated and you have ability to demolish and or salvage improvements.

# So What Are We Certifying Too?

One of three conditions:

- 3) The acquisition or right of occupancy and use of a few remaining parcels has not been completed...

*Under the condition above, if there are residences that are occupied, the residents must of had replacement housing made available to them.*

*Under the condition above, that state may request a conditional certification / clearance.*

## Additional Statements Required

That ROW has been or will be acquired in accordance with 49 CFR part 24 and part 710 or that the acquisition of ROW is not required.

When relocation is required, that the necessary steps to provide relocation adversary assistance and payments has taken place or that relocation assistance is not required.

# Who Issues The ROW Clearance?

On a Local Public Agency project, the **ADOT ROW Coordinator assigned to the project issues the ROW clearance** after the local agency certifies that the ROW within the project limits has been acquired in accordance with federal rules and regulations; if new. If the ROW is existing, they the LPA, has to document that they have the real property interest rights necessary to build, construct, operate, maintain and protect the facilities and traveling public.

On a Certified Accepted Agency project, the **local agency issues the ROW clearance with ADOT's concurrence**. The ADOT ROW Coordinator assigned to the project issues the concurrence.

*This is part of ADOT's oversight responsibility with FHWA.*

# What May the ROW Coordinator Require for Review to Issue the ROW Clearance?

1. Real Property Interest Certification completed and signed by LPA Agency.
2. ROW plans or Maps showing existing and new ROW. This maybe on the design plans or separate.
3. The parcel acquisition and relocation file for new ROW acquired. We are looking to make sure the acquisition and relocation was completed in accordance with the Uniform ACT (49 CFR part 24)
4. If existing ROW, a list of when, how it was acquired and type of interest acquired.



