**PROPOSED REVISIONS TO LAG MANUAL CHAPTER 25**

Subsection .21 – Proposed the following reorganization to provide clarification & consistency for completing the project prospectus:

.21 Determining Whether or Not Right of Way (Acquisition) is Required (See Chapter 21)-

a. R/W (acquisition) required is defined as land or property rights necessary for construction, operation and/or maintenance of the proposed project, or any prior (advanced/early) acquisition that was made specifically for the current project. This includes temporary rights required to complete the construction as shown on the PS&E (such as placing personnel, materials, equipment and machinery outside of existing R/W). If the agency already owns the land or property rights necessary for the project, the agency will provide adequate documentation in the ECS (Subsection 25.43) showing when and why the property was purchased. If the property was purchased for use on the project (e.g. advanced/early acquisition), then the R/W must have been acquired in accordance with the requirements of this manual.

**Advanced/early acquisition** is defined as prior land acquisition that was made specifically for the current project. This does not include properties within the existing R/W that were purchased as part of a previous project. Regardless of the funding source, advanced/early R/W acquisition parcels must be included in the R/W Certificate. Contact the LAC if you have questions.

If it is later determined that R/W is required, either a R/W Project Funding Estimate (PFE) or a True Cost Estimate, as applicable, a Right of Way Plan, and a Relocation Plan (if required) must be prepared and submitted to the Region Local Programs Engineer who will notify the Region LAC (who is responsible for review and approval). There are significant differences between the two forms of estimates and care must be used when selecting either the PFE or True Cost Estimate process. The Region LAC should be consulted when this decision is to be made. See Subsection 25.41 for explanations and requirements of the PFE and the True Cost Estimate.

b. No R/W (acquisition) required means that the proposed project can be built entirely within the existing roadway facility (the facility may be something other than roadway for transportation enhancement projects). Existing R/W is defined as land already incorporated into the roadway facility or land previously certified under a previous federal aid project. Leases, permits and easements for construction activities, slopes, drainage, etc., whether temporary or permanent, are generally considered R/W acquisition.

If it can be documented that the land or property rights were purchased for a purpose other than the transportation related project, and that the land/property rights are no longer required for the original purpose, then the Uniform Act and 49 CFR Part 24 requirements do not apply.
.24 Determining Acquisition of Property and/or (Sufficient) Property Rights

Subsection .24 – Proposed addition of new section to provide guidance on type of property rights to be acquired:

Fee:

Fee title should be acquired when the agency needs the exclusive use and occupancy of the property for itself.

Permanent Easements:

An easement may be acquired when the agency needs a non-exclusive right to enter upon the property of another.

Temporary Easements:

A temporary easement is used when the agency requires a property right which is temporary in nature. Temporary rights expire the terms in each individual temporary easement.

Permits:

In most situations, permits are used when no other property rights are to be acquired from the same ownership as part of the same project, and are normally obtained without the payment of compensation (mutual benefit). Permits can be used with other agencies to perform work on their property, such as tying into another roadway. Permits are only valid with the current owner, revocable, temporary in nature, and generally not considered sufficient to construct, operate or maintain proposed projects. When considering the use of permits or other property rights such as leases, rights of entry, land use licenses, etc. consult with the LAC.

All rights acquired for the project, including advanced/early acquisitions, must be shown on the right of way plan (see Section 25.4-.41). See also Right of Way Manual Chapter 6, Section 6-5.