Right of Way Manual

September 2004

Washington State
Department of Transportation

Right of Way Manual

September 2004

Washington State
Department of Transportation
Environmental and Engineering Programs
Real Estate Services

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1-1 Personal Conduct

1-1.1 Code of Ethics

Real Estate Services (RES) staff shall at all times conduct themselves in an ethical manner (RCW 42.52 Ethics in Public Service).

1-1.2 Political Activity

The political activities of state employees are directly controlled by various statutes which describe both permitted and prohibited activities.

1-1.2.1 Hatch Act

A. Federal law (the Hatch Act) applies to officers and employees of state and local agencies when such agencies receive federal funds. Washington State Department of Transportation (WSDOT) officers and employees are, therefore, subject to the provisions of the Hatch Act.

B. The Office of the General Counsel, U.S. Civil Service Commission, states that effective January 1, 1975, state and local employees may not:

1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
2. Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
3. Be a candidate for public or political party elective office in a partisan primary, general, or special election.

1-1.3 Sales to Employees Prohibited

No WSDOT employee is permitted to purchase either at public auction or otherwise any state-owned real property, improvements, or personalty which are under the jurisdiction of WSDOT, except in unusual cases with the specific prior approval of the Secretary of Transportation. Contact Property Management in the Headquarters for additional information.

1-1.4 Rendering Emergency Assistance

A. The department encourages its employees to provide emergency assistance to the public if and when the situation arises. Such assistance includes:

1. Aiding stranded motorists.
2. If qualified in First Aid, rendering such assistance at the scene of an accident.
3. Assisting in directing traffic at the scene of an accident under the direction of or until relieved by the Washington State Patrol or other local police officer.
4. Transporting injured persons from the scene of an accident to a hospital or doctor's office.

B. Any person who in good faith and without compensation renders emergency care at the scene of an emergency or who transports therefrom any injured persons for medical treatment is immune from civil damages arising out of said actions. However, the person rendering such aid or transportation is liable if their actions or omissions constitute gross negligence or willful or wanton misconduct.

1-2 Personnel Selection

1-2.1 Washington State Civil Service System

All RES personnel are covered by the Washington State Civil Service System which affords them protection similar to that provided by the Federal Civil Service System.

1-2.2 Classification Titles

Job descriptions for the following classification titles are given in the Washington State Department of Personnel Classifications and Washington Management Service (WMS) position descriptions.

Right of Way Agent I
Right of Way Agent II
Right of Way Agent III
Right of Way Agent IV
Region Real Estate Services Manager — WMS
Assistant Region Real Estate Services Manager — WMS
Assistant Director — WMS
Deputy Director — WMS
Director — WMS

1-2.3 Function Titles

The function title describes a particular specialty within a classification title. For example: a person holding the classification title of Right of Way Agent might be assigned any of the following function titles:

Staff Appraiser
Acquisition Agent
Title Examiner
Condemnation Examiner
Property Management Agent
Relocation Agent

1-2.4 Selection and Assignment

Rules and procedures for the selection and assignment of personnel to classification titles are given in the Merit System Rules.

1-3 Training Program

RES employees are encouraged to attend and participate in local chapter meetings of professional societies in their respective fields. Membership in such societies is purely voluntary the department neither requires such memberships as a condition of employment nor contributes to the cost of such memberships.

Employees may be afforded training opportunities to maintain a level of proficiency suitable to the needs of the department. The department is not obligated to offer training and does not require it as a condition of, or for continuation of employment.

The department will offer training opportunities which are potentially capable of increasing employee efficiency, improving job performance, and contributing to the promotional advancement of the participants.

1-4 Travel

Rules and procedures governing travel on state business are given in the WSDOT *Accounting Manual* (M 13-82) and the Local 17 Bargaining Agreement.

1-5 Vehicle Operation

Rules and procedures governing the use of state automobiles are given in the references cited in manual 53-50, *Use of State Provided Motor Vehicles*.

1-6 Daily Entry Diaries

1-6.1 General

The maintenance of Daily Entry Diaries by RES personnel assigned to field duties provide a running record of their activities and all persons and locations involved in their respective departmental business contacts.

1-6.2 Rules

A. All RES personnel assigned to field duties maintain Daily Entry Diaries.

B. At the end of each calendar year, Daily Entry Diaries are submitted to the Region Real Estate Services Manager (RESM).

C. Daily Entry Diaries are retained in Region files for a period of seven (7) years.

1-6.3 Procedures

A. The RESM:

1. Periodically audits the Daily Entry Diaries as necessary to assure diary integrity.
2. Assures that the Daily Entry Diaries are retained in the Region files for a period of seven (7) years following the year of their preparation.

B. All RES personnel assigned to field duties:

1. Make daily entries covering:
   a. Project title and parcel numbers worked on each day.
   b. Account to which time is charged; e.g., CS _____, Job number _____ (R/W #, OL #, etc.).
   c. A brief statement describing tasks performed, persons contacted, location of activities, etc.

      Note: Unusual occurrences or developments are of outstanding importance.
2. Submit the Daily Entry Diary to the RESM:
   a. Upon the request of the RESM.
   b. At the close of the calendar year.
   c. Upon termination of assignment to direct field duties.
   d. Transfer out of the Region.
   e. Retirement or other termination.

1-7 Highway Location and Design

1-7.1 General

A. Interdisciplinary teams are employed in all stages of transportation planning, location, and design. Both Headquarters and Region RES personnel are called upon for their professional expertise.

B. The Region RESM (or designee) makes project field inspections at appropriate times throughout the development of a project to assure that adequate consideration is given to significant Right of Way elements involved in the location and design of the project, including possible social, economic, and environmental effects.

C. RES personnel may contribute to the transportation planning team effort in various areas of which the following are examples:

1. Provide and evaluate ownership information.
2. Identify the extent of the impacted area.
3. Estimate costs of acquisition, relocation assistance, and other costs of proposed plans.
4. Identify and evaluate potentials for airspace development.
5. Identify and evaluate opportunities for multiple use of roadway properties, i.e., accommodation of transportation needs, and nontransportation uses/services through joint development of transportation and utility corridors.
6. Identify historical sites, open space and park lands, recreation areas, and wildlife and waterfowl refuges.
7. Identify the need for local roadway facilities; e.g., frontage service roads.
8. Identify needs for, and feasibility of, functional replacement of publicly-owned real property.
9. Identify and evaluate social, economic, and aesthetic impacts of the proposed project upon adjacent property, the community, and upon the region, including, but not limited to:
   a. Impact of the proposed project on urban planning, and existing and future land use development trends.
   b. Impact of the proposed project on community affairs (e.g., effects upon school attendance areas, accessibility of community shopping facilities to residential areas, etc.).
10. Identify displacements of people, businesses, farms, and nonprofit organizations, availability of satisfactory replacements and last resort housing needs; evaluate related costs.

D. The Region Administrator (or designee) conducts both the location (corridor) public hearing and the design public hearing.

1-7.2 Cost Estimates

A. Upon the request of the Region Administrator (or designee):

1. The Region RESM assigns Staff Appraisers to prepare appropriate cost estimates as specified in Chapter 4 of this manual.
2. Relocation Agents are assigned to prepare appropriate Relocation Plans and relocation cost estimates as specified in Chapter 12 of this manual.
3. Upon request, an engineer will accompany the Staff Appraiser and/or the Relocation Assistance Agent on the field inspection to advise on the design and the location details being studied.

B. The Region RESM (or designee) maintains file copies of all reports. An additional copy is maintained by the Region Administrator, (or designee) on all studies submitted by the Region. Such copies are retained for three (3) years from the date of the final voucher for the project.

1-8 Right of Way Plans

A. Right of Way Plans are prepared by the Engineering Staff of the appropriate Region. These plans include the operating right of way, land service facilities (e.g., rest areas, frontage service roads, etc.), and acquisition data. If the acquisition is for a limited vertical dimension or is for multiple or joint use, an appropriate explanatory note may be included on the plan.

B. The Region RESM:

1. Assures that Right of Way data of the types listed in this chapter are made available to the Engineering Staff.
2. Assists the Region Administrator (or designee) in identifying and assigning Right of Way parcel numbers to the affected ownerships shown on the Right of Way Plans.
3. Determines the types and extent of the property and/or property rights required (e.g., fee, easement, permit, etc.).
4. Assures that Right of Way Plans are complete to the extent that the necessary data are depicted thereon.

1-9 FHWA Regulations, Compliance With

1-9.1 Right of Way Projects

Unless specifically noted (e.g., “On nonfederal-aid projects . . .”), all operating regulations and procedures in this manual are intended to comply with applicable federal regulations.

1-10 Authority to Enter Lands for Surveys, Appraisals, etc.

“The commission or its duly authorized and acting assistants, agents, or appointees shall have the right to enter upon any land, real estate, or premises in this state, whether public or private, for purposes of making examinations, locations, surveys, and appraisals for highway purposes. The making of such entry for said purposes shall not constitute any trespass by the commission or by its duly authorized and acting assistants, agents, or appointees.” (RCW 47.01.170)

Department personnel normally obtain the consent of the property owner or tenant before entering private lands. Personnel may enter without such consent only on authority of the Director of Real Estate Services.

1-11 Actions Against State Employees

A. Civil Suits

1. Private parties may bring suits against employees of the state. The statutes of the state protect its employees in the following circumstances:

   If an action or proceeding for damages is brought against any Department employee based on the employee's acts or omissions while performing, or in good faith purporting to perform, their official duties, the employee may request that the defense of said action or proceeding be conducted by and at the expense of the State. The employee submits a written request to his immediate supervisor detailing the facts in the case and agreeing to cooperate in the defense. The supervisor submits the request through channels as appropriate. The request is then referred to the Attorney General's Office. Upon concurrence, an Assistant AG is assigned to appear and defend the employee at the State's expense. In this situation, if a judgment is rendered against the employee, the State's Tort Claims Revolving Fund will pay any part of the judgment which is not covered by any valid and collectible liability insurance held by the employee or the state.

   The employee is liable if the employee's actions or omissions constitute gross negligence or willful misconduct.

2. While our employees are covered by the blanket state vehicle liability policy while operating state equipment, this policy does not offer protection when state vehicle operation is not involved.

B. Administrative Actions by the Department

1. When a department employee is involved in an accident which results in injury involving an Industrial Insurance claim, bodily injury, or property damage to a member of the general public, or damage to the state's vehicles, machinery, equipment, or property, such an accident is made the subject of consideration by the Accident Review Board.

2. An employee who is determined by the Accident Review Board to have acted improperly or negligently may be subject to disciplinary action and/or a requirement to reimburse the state in the amount of damages to the state-owned property.

1-12 Personal Services Contracting by WSDOT Real Estate Services

1-12.1 General

The WSDOT Real Estate Services Office occasionally requires the services of outside consultants to accomplish tasks where state staff has insufficient expertise or availability, and where the task duration does not justify enlarging WSDOT staff. In such instances, personal service contracts are let by WSDOT Real Estate Services.

The types of services contracted for are: real estate acquisition (eminent domain) appraisal and appraisal review services; cost-to-cure/specialist estimates used in the eminent domain appraisal process; and real property acquisition services. Where practical, lists of pre-approved/pre-qualified consultants are used as sources of competitors. It is the intent of WSDOT Real Estate Services to provide the opportunity for minority firms and women's business enterprises to obtain an equitable share of the work for which consultants are engaged within the projected scope of work, their respective capabilities, and availability. WSDOT Real Estate Services complies with its FHWA approved affirmative action plan for federally funded projects.

This section outlines the procedures and policies for procuring and administering personal services contracts by the WSDOT Real Estate Services Office per RCW 39.29 and RCW 39.80.020. These procedures do not apply to contracts between WSDOT and other public agencies or to contracts between the Attorney General's Office and private consultants.

Procedures for procuring and awarding contracts vary depending on the type of consultant and whether the contract is exempt from competition, required to be competitively solicited, for emergency services, sole source, or is an amendment to an existing contract. The procedures for each are separately outlined in the Office of Financial Management publication entitled "Guide to Personal Service Contracting."

1-12.2 Appraisal and Appraisal Review Services

This subsection covers contracting procedures for eminent domain real estate appraisal, review appraisal, and funding estimate type services. Because these services are so unique, it is practical to maintain one pre-approved/pre-qualified list of consultants.

A. Procurement Source — WSDOT Fee Appraiser and Review Appraiser List

This List is maintained by Real Estate Services, Assistant Director, Appraisal and Appraisal Review Program, as a source of qualified competitors for these services. The list is established and maintained as follows:

1. WSDOT solicits interest from potential appraisal consultants once per year during the month of September.
   a. A solicitation is advertised in a major newspaper.
   b. A mailing, seeking interest, is sent to all persons holding an appraisal license or certification issued by the State of Washington, Department of Licensing.
   c. A 30-day period is allowed for appraisers and review appraisers who are interested to respond. During this period, there can be dialogue between the applicants and WSDOT.
2. Applications from interested appraiser consultants are reviewed by the Assistant Director, Appraisal and Appraisal Review Program, for credentials, expertise, experience, training, and availability:
   a. As a minimum, the appraiser must have some experience and/or training in eminent domain appraisal/partial acquisitions. Appraisers not meeting the minimum requirements will be notified in writing.
   b. WSDOT conducts an examination of qualified appraisal applicants. Those who pass the examination by a raw score of 65 percent or over are included on a list of qualified eminent domain appraisers. Applicants with at least two years of full-time experience as a staff Appraiser or Review Appraiser for WSDOT are exempt from taking the examination.
   c. Those applicants who do not pass the examination will be notified in writing. If so desired, the appraiser may appeal to the Director Real Estate Services. The appeal must be in writing and received within 30 days of notification of examination results.
   d. WSDOT will notify those passing the exam of their inclusion on the list.
3. Applications from interested review appraiser consultants are reviewed by the Assistant Director, Appraisal and Appraisal Review Program, for credentials, expertise, experience, training, and availability:

a. Each qualified applicant is required be certified "General" in the state of Washington per RCW 18.140 and be on the WSDOT approved appraiser list. A mailing, seeking interest, is sent to each appraiser on the WSDOT approved list.

b. The minimum amount of appraisal experience required is five years of full-time narrative real estate appraisal report writing within the past ten years, two years of which were eminent domain appraisals in the state of Washington. Or, two full years as a full-time Review Appraiser with WSDOT.

c. WSDOT conducts an examination of qualified review appraiser applicants. Those who pass the examination by a raw score of 65 percent or over are included on a list of qualified eminent domain review appraisers. Applicants with at least two years of full-time experience as a staff review appraiser for WSDOT are exempt from taking the examination.

d. Those applicants who do not pass the examination will be notified in writing. If so desired, the appraiser may appeal to the Director Real Estate Services. The appeal must be in writing and received within 30 days of notification of examination results.

e. WSDOT will notify those passing the exam of their inclusion on the list.

5. The Assistant Director, Appraisal and Appraisal Review Program, keeps a performance file for each consultant on the list. A consultant may be removed from the list for cause:

a. Falsification of information on the list application.

b. Violation of the Fee Reviewer's List Application Affidavit.

c. Felony conviction.

d. Malfeasance or misfeasance.

6. WSDOT makes copies of the list available to the WSDOT Regions, Attorney General Office, and other public agencies requesting a copy.

B. "Exempt from Competition" contracts:

Are contracts under $5,000 where the contractor has done less than $5,000 sole source contract work for WSDOT in the current fiscal year (including the proposed contract amount). This information is available from the Assistant Director, Appraisal and Appraisal Review Program. These contracts can be immediately awarded without competitive solicitation. The procedures for these contracts are:

1. The Region Appraisal Supervisor awards the contract to a consultant on the WSDOT Fee Appraiser and Review Appraiser List.

2. The Region Appraisal Supervisor drafts the approved Personal Services Contract:

a. Item 1-16 are boiler plate language approved by the AG's office.

b. Item 17 shall include all required items plus a funding number with sufficient funds to pay the contract.

c. Item 18 is the definition of the task or the scope of services to be rendered. The final sentence in this section is to read: "Appraisal services contracted herein are to meet the standards of the *WSDOT Appraisal Guide* (Appendix 4-1, M 26-01)."

d. Item 19 is a lump sum total in words and figures. If the task is a multi-parcel contract, the total amount is broken down per parcel on an attachment or in Item 25.

e. Item 25 is the area for definitions of fee breakdowns, special payment or completion timetables, overruns, promptness bonuses, lateness penalties, etc.

f. The contractor's IRS number must appear next to the contractor's telephone number.

g. The contract "Y" number is written at the bottom right. This number is assigned by Headquarters Work Order Accounting.

3. The contract is executed by the contractor.

4. Contracts up to $4,999 may be executed by ADAARP (Assistant Director, Appraisal and Appraisal Review Program) for WSDOT. The date of WSDOT execution is the contract "start work date."

5. The contract package is transmitted to the Assistant Director, Appraisal and Appraisal Review Program:

   a. The cover is a memorandum explaining:

      (1) that the needed service is critical to WSDOT operations;

      (2) that sufficient, qualified staff is not available within WSDOT to perform the service in the required time frame;

      (3) that other qualified public staff are not available to perform the needed service within the required time frame; and

      (4) that the contract amount is reasonable for the needed services.

   b. The completed Agreement Edit Information sheet (DOT Form 130-005).

   c. The contract original.

6. The Assistant Director, Appraisal and Appraisal Review Program, reviews the package for completeness, forwards the contract to Agreement Review, maintains contract records.

7. The Region Appraisal Supervisor monitors the contract task completion, provides liaison between the contractor and the department, and handles payment per terms of the contract

C. Contracts Required to be Competitively Solicited:

Are those where the proposed contract amount is $5,000 or over, or where the proposed contractor has done a cumulative of $5,000, or over, sole source work for the department during the current fiscal year (including the proposed contract amount). The procedures for these are:

1. The Region Appraisal Supervisor obtains three or more fee proposals by letters of solicitation written to consultants on the WSDOT Fee Appraiser and Review Appraiser List. These requests for proposals (RFPs) contain as a minimum:

   a. A description of the type of services required;

   b. The proposed schedule that the services are to meet;

   c. A request that the consultant provide cost or fee estimates for the services to be performed (these are to be broken down per-parcel if applicable);

d. A due date and location for delivery of the response to the solicitation;

e. A statement that the criteria for award will be based on:

(1) credentials, experience, reputation

(2) the proposed fee or cost

(3) ability to meet schedules

(4) previous performance

(5) responsiveness to the solicitation

f. Nondiscrimination statements per RCW 39.19.080 and RCW 39.19.090.

2. The Region Appraisal Supervisor awards the contract to the best competitive proposal.

3. The Region Appraisal Supervisor drafts and has the contractor sign the contract.

4. The contract package is transmitted to the Assistant Director, Appraisal and Appraisal Review Program:

a. The cover is a memorandum explaining:

(1) that the needed service is critical to WSDOT operations;

(2) that sufficient, qualified staff is not available within WSDOT to perform the service in the required time frame;

(3) that other qualified public staff are not available to perform the needed service within the required time frame;

(4) a summary of the solicitations made, the bids received, and the reasons for award; and

(5) if the contract is for $20,000 or more, a statement that advertising requirements are exempted per OFM letter dated 8-14-92.

b. The completed Agreement Edit Information sheet (DOT Form 130-005);

c. The contract original; and

d. A copy of each solicitation and response letter.

5. Real Estate Services, Assistant Director, Appraisal and Appraisal Review Program, reviews the package for completeness, forwards the contract for execution by the Director, Real Estate Services, forwards the contract original to Agreement Review, sends an executed copy to the Region, and maintains contract records.

6. Real Estate Services, Assistant Director, Appraisal and Appraisal Review Program, informs the Region Appraisal Supervisor of the start date of the contract. The Region Appraisal Supervisor sends a letter to the contractor informing them of the start date.

7. The Region Appraisal Supervisor monitors the contract task completion, provides liaison between the contractor and the department, and handles payment per terms of the contract.

1-13 Vacate

1-14 Relocation Review Board

Reviews and takes action on appeals by relocation displacees who are aggrieved as to eligibility for, or the amount of any relocation assistance payment. See Chapter 12 of this manual and consists of:

1. The Regional Administrator from the affected Region
2. The Director for Environmental and Engineering Programs
3. Director, Real Estate Services

1-15 Right of Way Certification

1-15.1 State Projects

1-15.1.1 General

Right of Way is certified clear by the Region with a "Right of Way Certificate" prior to advertising the physical construction of the project. Where Federal Highway funds are anticipated the project is recertified by Headquarters to the FHWA. Projects funded in whole or in part by the FHWA can not proceed to contract until notification of approval is received from the FHWA.

1-15.1.2 Procedures

A. Region and Headquarters Right of Way coordinate to obtain clearance of the right of way. The computer system is kept updated by the appropriate Region and Headquarters staff.

B. Upon receipt of a copy of the PS&E the Assistant Director, Local Agency Projects/Special Acquisitions/Certifications, reviews the status of right of way required for the project.

C. The procedures and guidelines in this manual are adhered to. Any deviations are documented and authorized on a case by case basis.

D. For projects where the Final Project Definition indicates that no right of way needs to be acquired no certificate is required. If project scope changes occur after submittal of the Final Project Definition and additional right of way is required, a certificate is submitted following standard procedures.

E. At least two weeks prior to advertising a project the Region submits a Right of Way Certificate to Headquarters using one of the following formats. In the case of projects funded by FHWA, Headquarters then prepares a certificate using the same format and submits it to FHWA at least one week prior to advertising.

1. **All Right of Way Acquired.** Legal and physical possession has been obtained but trial or appeal of cases may be pending. All occupants have vacated the right of way and the agency has the right to remove any remaining improvements
2. **Right to Occupy All Right of Way Acquired.** Trial or appeal of some parcels may be pending and some parcels may have right of entry or possession and use only. All occupants have vacated the right of way and the agency has the right to remove any remaining improvements

3. **All Right of Way Not Acquired.** This certification is to be used only in very unusual circumstances.

   Acquisition of a few remaining parcels is not complete. All occupants of residences have had replacement housing made available to them in accordance with 49 CFR 24.204. The agency must adequately explain why construction of the project before acquisition is complete, is in the public good. The agency will ensure that occupants of residences, businesses, farms or nonprofit organizations who have not yet moved from the right of way are protected against unnecessary inconvenience or coercive action. All unacquired parcels will be identified and a realistic date given for completion of acquisition and relocation. An explanation of why the properties are not acquired and how they will be acquired by the given date is also required. Appropriate notification will be provided in the bid proposals identifying all locations where acquisition is not complete.

F. Certifications with exception must be followed by a certification without exception when possession of all parcels is obtained.

1-15.2 Local Agency Projects

1-15.2.1 General

Federally funded project activities of a local agency, such as a county, city or town, are monitored for FHWA by the Highways and Local Programs Division with Real Estate Services monitoring the acquisition and certification of right of way. To qualify to acquire right of way, an agency must submit and have approved right of way procedures and follow the procedures and guidelines in this manual and in Chapter 25 of the *Local Agency Guidelines* manual.

1-15.2.2 Procedures

A. The Region RES Manager through the Region Local Agency Coordinator (Coordinator) coordinates with the Region Local Programs Engineer the handling of right of way matters on federally funded Local Agency projects.

B. The coordinator works closely with the local agencies from the outset of the project to insure that all right of way is acquired according to the guidelines. The extent of the involvement is determined by the expertise of the agency staff. The Coordinator will perform a review of the project files prior to submitting a certification through Local Programs to Real Estate Services in Headquarters.

C. The Assistant Director, Local Agency Projects/Special Acquisitions/Certifications, keeps files on each agency to include their Approved Procedures, Agreements for Aid and Project Certifications. Upon receipt of the local agency certificate, prepares a certificate to the FHWA as set forth in Chapter 25 of the *Local Agency Guidelines* manual and submits it to Highways and Local Programs.

D. Highways and Local Programs combines the certificate with the funding package and transmits to FHWA for approval. Upon receipt of approval, Highways and Local Programs will notify the local agency that the project can be advertised.

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Chapter 2 Organization

This chapter contains a description of the organizational structure that exists in the Washington State Department of Transportation (WSDOT), promulgated in some cases by other authority. Statements regarding areas of authority and responsibility outside of "Environmental and Engineering Programs" are included only to provide continuity of the concepts discussed. In those cases, such statements do not constitute an assignment of authority or responsibility.

2-1 Department Organization

2-1.1 General

A. WSDOT, with the approval of the Washington State Transportation Commission, operates a decentralized organization. It consists of a staff office called Headquarters. There are six region offices and several divisions, including the Washington State Ferries Division.

B. The executive officers are the Secretary and Deputy Secretaries of the department and they carry into effect the Commission's orders and policies.

C. The principal staff officers are the five Assistant Secretaries. The principal staff officers establish guidelines and criteria to ensure uniformity of operations in accordance with the Secretary's policy directives and department manuals.

D. Permanently-assigned staff located in Headquarters establish operating regulations, and advise and assist region personnel in carrying out their assigned duties.

E. Permanently-assigned region personnel carry out the programs of the department in accordance with the established operating regulations.

F. All legal services for WSDOT are provided by the Chief Counsel, Transportation Division of the Office of the State Attorney General, hereinafter referred to as the Attorney General Division.

G. WSDOT bases its staffing requirements on the level of employment necessary to perform and administer all activities incidental to programmed projects. The services of outside consultants, specialists or other fee practitioners are secured only when the need arises for specialized skills or for personnel to augment the regular staff to meet peak program activity.

2-1.2 Responsibility and Authority

2-1.2.1 Washington State Transportation Commission

The seven members of the Washington State Transportation Commission are appointed by the Governor, with the confirmation of the Senate, to staggered six-year terms (Ref: Chapter 47 RCW Public Highways). The State Transportation Commission, within the provisions of law, assumes and exercises authority and direction over the administration of WSDOT.

2-1.2.2 Executive Officers

The Secretary of Transportation is the chief executive officer for WSDOT and is appointed by the State Transportation Commission. The Secretary carries out the Transportation Commission's orders, policies, and direction in a manner sensitive to the needs of all Washington State's citizens.

A Deputy Secretary for Policy assists the Secretary with high level legislative, legal, policy, and human resource issues. A Deputy Secretary for Operations assists with high level engineering, environmental, construction, and planning issues.

2-1.2.3 Principal Staff Officers

Within their respective areas of authority the principal staff officers are responsible to the Secretary of Transportation for the following:

A. Establishing and administering pertinent operating criteria and guidelines in accordance with the Secretary's policy directives, state and federal regulations.

B. Auditing of performance.

C. Advising and assisting the Regional Administrators.

D. Administrative functions including the approval and execution of certain documents and instruments.

2-2 Headquarters Organization

2.2.1 Director, Real Estate Services

A. Administers statewide the operation of Real Estate Services; manages the Headquarters Real Estate Services Office which is the repository of the official records of all real property functions; is the chief branch policy-maker and coordinator of functions of the six region RES Managers in their relationship with the Federal Highway Administration (FHWA), Attorney General Division for Transportation, employees bargaining unit, Headquarters offices, and other offices of state government and railroad corporations on all agency real estate matters.

B. Is a member of the RES Administrative Review Board for administrative settlement matters; and the Relocation Assistance Appeals Board.

C. Has principal duties consisting of:

1. Maintaining a policy and procedural manual current with state law and federal regulations for compliance by all RES personnel.
2. Advising WSDOT personnel at all levels in RES matters.
3. Monitoring employee performance, recommending training and/or needed corrective action.
4. Coordinating with the WSDOT Personnel Manager in personnel management and in collective bargaining negotiations.
5. Responding to state and federal audits of RES performance.
6. Providing assurances to the FHWA and other offices of government at all levels, of availability of replacement housing for persons displaced by highway construction projects.

7. Obtaining advance approvals of project replacement or individual "Housing of Last Resort" plans, or proposed policy deviation needed from FHWA or other offices of government in Relocation Assistance, Right of Way Appraisal, Acquisition, or Property Management.
8. Reviewing and deciding on the acceptance of all transactions specifying payments determined by review appraisers, or Region RES Managers as administrative payments.
9. Reviewing and deciding on the acceptance of surplus property rentals as recommended by region offices, or sales of surplus property.
10. Reviewing and deciding on the acceptance of region office requests to hire consultants or fee appraisers and approve contracts specifying amounts less than $10,000. Making recommendations, as necessary, to the Consultant Selection Board for those in excess of $10,000.
11. Deciding on concurrence by the department, or making recommendations to the Administrative Board, in pretrial or stipulated settlements proposed by Assistant Attorneys General.
12. Administering the functions of the Acquisition; Title Condemnation and Records; Property Management; Relocation; and the Local Agency Projects/Special Acquisitions/Certifications Sections.
13. Carrying out other assignments made by the Director for Environmental and Engineering Programs.

2-2.2 Deputy Director, Real Estate Services

A. Performs all duties of the Director, Real Estate Services, in his/her absence.

B. Serves as a member of the Administrative Review Board to approve administrative settlements and AG settlements.

C. Chairs the RES Training Matrix Committee and monitors and approves training for all Headquarters RES employees.

D. Represents RES in various technical and procedural teams or committees.

E. Oversees the Headquarters RES budget and FTE allocations to assure compliance.

F. Assists the Attorney General in mediations and settlements.

2-2.3 Assistant Director, Local Agency Projects/Special Acquisitions/ Certifications

The Assistant Director for Local Agency Projects reports to the Deputy Director, Real Estate Services, and is responsible for supervising the statewide Local Agency Coordination program, the statewide PS&E Review program and the statewide Right of Way Certification program to include:

A. Training and monitoring the region local agency coordinators responsible for the acquisition of right of way by local agencies on federally funded projects.

B. Working through Local Programs to approve and monitor local agency's acquisition procedures and train the agencies in proper use of the procedures. Monitor and update Chapter 25 of the *Local Agency Guidelines* manual.

C. Reviewing construction project PS&Es to insure that all necessary rights have been acquired and monitoring and reporting to the region and Headquarters on current status.

D. Preparing right of way certificates for all acquisition on federally funded projects prior to construction project advertisement. Monitoring and recertifying any projects certified with exceptions (#3 certification).

E. Maintaining permanent files on local agencies to include approved procedures, local agency agreements and project certifications etc.

2-2.4 Assistant Director, Property Management Program

The Assistant Director, Property Management Program:

A. Manages the Statewide Property Management Program by assuring compliance with departmental operating regulations. The position reports to the Deputy Director, Real Estate Services.

   1. Directing the review and inventory control of all excess property and sundry site (capital plant and materials sites) parcels.
   2. Directing the review of property disposition transactions to assure compliance with regulations and the validity of judgmental factors.
   3. Providing technical advice on property management matters to others.
   4. Directing the statewide promotion and sale of surplus properties including land and improvements by both auction and direct sale.
   5. Directing the statewide promotion and operation of rentals, leases, airspace agreements, and joint use.
   6. Performing field inspections of right of way operations.

B. Provides for coordination with and advice to the Regional Administrators, other Headquarters offices, the Attorney General Division, and the FHWA on property management functions.

C. Coordinates with the Regional Administrators on the investigation of citations regarding compliance with operating regulations governing the property management functions.

D. Formulates operating regulations governing the property management functions for approval by higher authority.

2.2-5 Assistant Director, Relocation Assistance Program

The Assistant Director, Relocation Assistance Program:

A. Manages the statewide relocation assistance program. The position reports to the Deputy Director, Real Estate Services.

B. Additional responsibilities include:

   1. Management of the Headquarters Relocation Assistance Office.

2. Reviewing and approving all incoming claims.
3. Advising the Director, Real Estate Services, and regional offices in program matters.
4. Maintenance of official relocation files.
5. Promulgating operating procedures that implement current state law and federal regulations.
6. Coordinating and scheduling appeal of determinations and benefits, when necessary.
7. Other functions as required by the Director, RES.

2-2.6 Assistant Director, Appraisal and Appraisal Review Program

A. Manages the statewide appraisal program. The position reports to the Deputy Director, Real Estate Services.

B. Manages the Headquarters appraisal office. All review appraisers report to this position. Headquarters staff appraisers report to this position.

C. Assures that appraisals and reviews are prepared in consistency with current acceptable appraisal standards for eminent domain.

D. Serves as a member of the Administrative Review Board to approve administrative settlements and AG settlements.

E. Issues operating procedures that implement current state law and federal regulations.

2-2.7 Assistant Director, Title and Condemnation Program

The Assistant Director, Title and Condemnation Program:

A. Manages the statewide Title Review and Condemnation functions and the records function within Headquarters. Reports to the Deputy Director, Real Estate Services. The principal duties of this position are:

1. Directs the review and final processing of all real property acquisition and damage claim files. Assures legal sufficiency and compliance with state laws and departmental regulations. Performs final review and processing of surplus property conveyance documents.
2. Directs the preparation of legal descriptions and exhibit maps, and determinations of interested parties for use by the Attorney General Office in eminent domain proceedings.
3. Makes recommendations for procedures concerning real property title and document processing functions for approval by higher authority.
4. Prepares affidavits and/or testifying in court as the department’s expert witness in real estate matters involving titles and legal descriptions.
5. Supervises the Real Estate Services administrative activities which include:
   a. Indexing and storage of the departments official real property transactions of ownership files.

b. Maintaining complete and current official files of transportation project right of way and sundry site plans.

c. The development and operation of the computer system.

6. Performs other functions as required by the Director, Real Estate Services.

2-3 Region Organization

2-3. 1 General

A. The principal satellite offices of WSDOT are known as "Region Offices."

B. The relationship of the Region Real Estate Services (RRES) offices within WSDOT is shown in the Organization Handbook published by Administrative Services.

C. The geographic boundaries of each region are shown in the Organization Handbook. If the limits of a particular highway project extend across the boundaries of a region, the responsibilities are assigned to either of the two regions by working agreement based on a case evaluation.

2-3.2 Responsibility and Authority

2-3.2.1 Region Administrator

A. As shown in the Organization Handbook, the Region Administrator is responsible to the Secretary of Transportation and the Deputy Secretary for Operations.

B. The Region Administrator has final authority in the region for decisions on highway matters within the framework established by departmental operating regulations in the form of departmental manuals, directives, and instructional letters.

C. The Region Administrator exercises administrative and management supervision over the RRES as follows:

1. Furnishes the facilities and supplies, and provides for the staffing required for the effective accomplishment of the right of way program and its related activities.

2. Within the scope of departmental operating regulations, may review and approve transactions, or may make recommendations for further actions. ***Note:*** This activity may be subdelegated to the RRES Manager, but may not be further subdelegated.

2-3.2.2 Region Real Estate Services Manager (RRESM)

The RRESM:

A. Is responsible to the Region Administrator for managing the RRES Office. This position also serves as a member of the Region Administrator's staff.

B. Is responsible to the Region Administrator for the following:

1. Supervising and directing the RRES Office to assure compliance with the departmental operating regulations by:

a. Managing all region Real Estate Services functions.

b. Providing technical supervision and in-service training in all RRES program disciplines.

c. Identifying opportunities for functional replacement of publicly-owned real property. Assures compliance with special requirements for functional replacement.

d. Providing reports and systematic records on the anticipated costs of proposed right of way acquisitions and related costs.

e. Assuring the receipt of an appropriate right of way plan and an appropriate Work Order Accounting Plan prior to obligating funds on a project.

f. Monitoring proposed expenditures to assure their necessity and to assure accurate account coding.

g. Reporting on the causes for fund adjustments and the amounts of fund adjustments relative to a Work Order Accounting Plan.

h. Providing for appraisal evidence of the amount of the legally compensable fair market value lost to each separate fee and/or tenant ownership due to acquisition or highway project factors.

i. Performing the "Project Inspection and Parcel Assignment," and ensuring that all property and/or property rights required for a project are either acquired or are referred for condemnation.

j. Directing the operation of the relocation assistance program for project displacees.

k. Directing the management of property and/or property rights acquired.

l. Advising and assisting Local Public Agencies (LAs) in completing their right of way acquisition programs when requested. Reviewing LA acquisitions as needed to assure compliance with state and federal requirements.

m. Ensuring the accuracy of records, and the systematic input of project/parcel status information into the computer concurrent with parcel acquisition progress.

2. Coordinating with other staff officers in the region by:

a. Assuring adequate time allocations for right of way activities in the planning for lead time and scheduling

b. Providing for real estate services participation in the interdisciplinary team efforts and project field inspections in location and design, as required by the Regional Administrator.

c. Providing data and/or personnel required to explain the acquisition, relocation assistance, and other related programs at public hearings.

d. Assisting in the preparation of right of way plans as required.

e. Taking actions as required in Chapter 6 for the authorization of advance acquisition of projects.

f. Taking actions as required in Chapter 6 for the authorization of hardship acquisition of parcels.

g. Recommending appropriate funding for, and directs the operation of, the regions's ongoing property management inventory.

3. Obtaining technical advice from the Director, Real Estate Services (or his designee), on the following:

   a. Technical problems relating to any of Real Estate Services' disciplines.

   b. Training of personnel.

   c. Compliance with guidelines on right of way matters.

2-4 Organization of the Attorney General Office

2-4.1 General

The State Office of the Attorney General provides legal services to state agencies.

2-4.2 Responsibility and Authority

2-4.2.1 Attorney General

A. The chief legal officer for the State of Washington holds the title of Attorney General. Since this is an elective position, the Attorney General is responsible to the voters of the State of Washington for all legal matters concerning the State.

B. WSDOT has a staff of attorneys assigned on a permanent basis to advise and represent the department at the Attorney General's Office. WSDOT reimburses the Office of the Attorney General for salaries, benefits, and case related expenses.

2-4.2.2 Chief Counsel

A. The principal Assistant Attorney General in the office of the Attorney General Office holds the title of Chief Counsel.

B. The Chief Counsel is responsible to the Attorney General for all activities of his staff, and operates in close coordination with the State Transportation Commission and the Secretary of Transportation.

C. The Chief Counsel assures the close coordination of his staff with the Real Estate Services staffs in regions and Headquarters.

D. An Assistant Attorney General may be assigned to handle land acquisition matters for each region. If the case load in a particular region necessitates it, additional Assistant Attorneys General may be assigned to that region.

E. Only in rare instances (e.g., excessive workloads on regular staff) are the services of a private attorney employed. In these instances, the Chief Counsel contracts with an attorney who has competence, interest and familiarity with applicable procedures. If federal aid participation in the cost of his services is desired by the state, advance FHWA approval must be obtained to employ special counsel.

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3-1 Abbreviations

The following standard abbreviations may be used within the Real Estate Services Office (RES) without further explanation. In correspondence outside RES, abbreviations are not used. When using an abbreviation other than those given below, the abbreviation is defined by showing it in parentheses at the first opportunity in the text, e.g.: "Right of Way (R/W)."

AASHTO	American Association of State Highway and Transportation Officials
AG	The Attorney General or any of the Assistant Attorneys General
AIREA	American Institute of Real Estate Appraisers
ALTA	American Land Title Association
CS	Control Section
DNR	Department of Natural Resources
DSS	Decent, Safe, and Sanitary
DRES	Director, Real Estate Services
DV	Determination of Value
FA No.	Federal Aid Project Number
FHWA	U.S. Department of Transportation, Federal Highway Administration
HES	Highway Engineer's Station
IR/WA	International Right of Way Association
J&D	Judgment and Decree of Appropriation
L No.	Location Job Number. An accounting code number with an "L" prefix used in conjunction with Preliminary Engineering
OAPU	Order Adjudicating Public Use and Necessity
OIPU	Order of Immediate Possession and Use
P&U	Possession and Use Agreement
PC	Preliminary Commitment for Title Insurance
PRM	Partial Release of Mortgage
QCD	Quitclaim Deed
RCW	Revised Code of Washington
RES	Real Estate Services

RESM	Real Estate Services Manager
R/W	Right of Way
RW No.	Right of Way Job Number
R/W Project No.	Right of Way Project Number
SEA	Statutory Evaluation Allowance
SPC	A supplementary report to PC
SR(No.)	State Route (Number)
SREA	Society of Real Estate Appraisers
STIP. P&U	Stipulated Order of Immediate Possession and Use
UAB	Urban Arterial Board
WAC	Washington Administrative Code
WASHTO	Western Association of State Highway and Transportation Officials
WD	Warranty Deed
WLTA	Washington Land Title Association
WSDOT	Washington State Department of Transportation

3-2 Glossary

This glossary defines terms that are used in RES activities. Not included are terms that are defined by RCWs, WACs, AASHTO, FHWA, or a standard dictionary. In correspondence outside RES, it may be necessary to explain special expressions.

Acquired Dwelling Unit — The portion of the lands acquired for a public works project that includes all improvements of a residential nature serving the displacee.

Adverse Possession — A method of acquiring title to the land of another by actual, open, notorious, continuous, hostile, and exclusive holding of the land for a statutory period. An easement acquired by this method is a “prescriptive easement.” Title reports are often silent on adverse possession; therefore, these rights are determined by actual inspection of the property. To be compensable these rights must be perfected by a court action.

Appurtenance — Something which is joined or attached to property. When an easement benefits a property, it is an “appurtenance”. In order to be an appurtenance, an easement must be necessary for the enjoyment of the lands benefited. A warranty deed conveys the appurtenant easement even if the easement is not mentioned in the deed.

Attorney in Fact — A fiduciary (agent, representative) appointed by and empowered to act for a principal (a person or a corporation). The Attorney in Fact for a person is empowered by the principals having executed a Power Attorney. The Power of Attorney may be either for a general or for a specific purpose. The Attorney in Fact may act only while the principal is alive and of sound mind, when the Power of Attorney permits the act and provided that the

Power of Attorney has not been superseded or revoked. The Attorney(s) in Fact of a corporation are those officers of the corporation who are empowered by the corporation's articles of incorporation to act for the corporation.

Call — A part of a legal description which combines a direction and a distance; e.g., "thence North 0°17' East 506 feet" or "thence along the said easterly boundary to the county road," A series of "calls" locate and enclose a tract in a "metes and bounds" description.

Color of Title — An instrument or set of facts that give the appearance of title, but do not prove title.

Date

Clear Date — A parcel status date generated by the computer indicating that the parcel is ready to certify as available for construction.

Closing Order Date — The date on which the acquisition instrument(s) and appropriate instructions are sent to the title company for processing and recording.

Initiation of Negotiations, Date of — The date on which the State makes the first personal contact with the parcel owner (or his designated representative) where price is discussed. This is also the date of the State's initial Firm Offer Letter. The "date of initiation of negotiations" for a project is the earliest date of initiation of negotiations for any parcel (except advance acquisitions) on the project.

Payment Available Date — The estimated date on which the owner receives the State's warrant, or the date of payment into the court or out of an escrow closing.

Property Management Certified Clear Date — The date upon which no one other than the State has a valid interest in any remaining improvements on the parcel.

Relocation Certified Clear Date — The date upon which all displacees and/or personalty are off the parcel.

Deed

Bargain and Sale Deed — A deed in which the grantor makes no warranty. Any title that the grantor has or later acquires passes under this deed to the grantee.

Sheriff's Deed — A deed given to the holder of the Sheriff's certificate after expiration of the redemption period. The certificate results from the foreclosure of a lien or mortgage.

Trust Deed — A deed in which the grantor conveys legal title to property to a trustee and states the authority and conditions binding the trustee in dealing with the property. Similar to a mortgage, this deed secures a debt to real property.

Excess Right of Way — Property acquired as operating right of way but no longer needed as such. A plan revision mapping the excess R/W area is necessary prior to disposal.

Habitable Floor Space — That space used for sleeping, living, cooking, or dining purposes. Excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connection corridors, laundries and unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

Income, Gross — Income from all sources, including amounts paid directly to the family (or individual) through public assistance agencies or programs.

Inner Harbor Line — A line determined by the State Harbor Line Commission which is located and established in navigable tidal waters between the line of ordinary high tide and the outer harbor line and constituting the inner boundary of the harbor area.

Interim Use Improvement Value

1. The difference, if any, between the value of land under a highest and best use premise if vacant, and the value of the property under its present use as improved.
2. The amount of value contributed by a building which is an underimprovement by reason of a change in the highest and best use of the land on which it is located.

Inventory Control Number (IC No.) — An identification number assigned automatically by PMS to each parcel of real property or real property interest owned or controlled by the Department of Transportation and located outside the operating right of way limits when such parcel is entered into the Real Property Inventory.

Judgment and Decree of Appropriation (J&D) — A court order setting over to the State of Washington, for the benefit of the public, the title to personal and/or real property or property rights. The State Constitution requires that just compensation must be paid for the loss of the property. There are three forms of J&Ds:

Stipulated — Following an out-of-court settlement between the condemning agency and the property owner, the court approves the stipulation and the order is entered in accordance with the terms of the stipulation.

Court — The order resulting from a non-jury trial in which the judge decides the just compensation.

Jury — The order resulting from a jury trial in which the jury decides the just compensation.

Life Estate — A freehold; i.e., a real property estate, the duration of which is measured by the life of the person holding it or by the life of some other person.

Local Improvement District (LID) — A minor governmental subdivision having the power of taxation established to install a public improvement (e.g., water, sewer, etc.) in an area. The improvement is funded by assessments against the parcels real property in the LlD's area. These assessments become encumbrances against the respective parcels.

Meander Line — A "meander line" is a surveyed line made up of straight segments which theoretically approximate the line ordinary high tide or line of ordinary high water to delineate between uplands and tidelands or shorelands.

Mortgage Balance, Former — The amount of the principal balance on the date that the mortgage is paid off by the acquiring agency.

Nonoperating Property (Utility) — Property held by a public or private utility by fee title, easement, lease, etc., and which is not presently integrated as a part of a public service network.

Nonoperating Property (Departmental) — Waste sites, pits, stockpile sites, maintenance sites, drainage and stream easements and other such lands or easements required or used in the support of the construction and/or operation of a vehicular public way.

One Buyer-Seller Concept — An appraisal theory which holds that the total value of the separated remainders of a severed parcel is limited to the amount which one buyer would pay and one seller would accept, under the market value definition, for all of such remainders in a single transaction. This is distinguished from the sum of the amounts which multiple buyers would pay for the remainders if sold individually.

Operating Property — Property held by a public or private utility by fee title, easement, lease, etc., and which is presently a part of a functioning public service network, e.g., a railroad or power transmission right of way.

Order Adjudicating Public Use and Necessity (OAPU) — A court order establishing that the property and/or property rights sought are necessary for use by, and for the benefit of, the general public.

Order of Immediate Possession and Use (OIPU) — A court order confirming a written agreement between the condemning agency and the property owner which has been entered in the court. The written agreement stipulates that, upon payment of a specific amount of money into the registry of the court, the condemning agency is entitled to take possession of the property, and that the just compensation will be decided by a later court action. Subject to the interests of other interested parties, the property owner is entitled to withdraw the funds from the court. (Also see POSSESSION AND USE AGREEMENT.)

Outer Harbor Line — A line determined by the State Harbor Line Commission which is located and established in navigable tidal waters beyond which the State shall never sell or lease any rights whatsoever.

Person — For the purposes of the Relocation Assistance program, includes a partnership, company, corporation, or association as well as an individual or family.

Possession and Use Agreement — A negotiated instrument in which the state and the property owner agree that, upon payment of a certain amount to the property owner, the state is entitled to immediate (or dated) possession and use of the property, and that the final settlement will be decided at a later date.

Project Number

> **Construction Project Number** — A seven-digit alphanumeric identifier that correlates the construction project with right of way project.

Project Title

Construction Project Title — the generic description of the route and termini of a construction project. The specific wording is shown in the title block of the PS&E. Engineering and fiscal considerations often result in a single right of way project being divided into several construction projects. Therefore, it is possible for a parcel to be associated with several construction projects.

Right of Way Project Title — The generic description of the route and termini of a Right of Way project. The specific wording is shown in the title block of the Right of Way Plan and is exactly duplicated whenever used to identify the project.

Sundry Site Project Title — Projects involving sundry sites are identified by the name of the county. A materials site for use on a roadway project is identified by two titles: (l) The Sundry Site Plan name and site number; (2) The words "For use on" followed by the official name of the related right of way project e.g., "Thurston County Sundry Sites, Pit Site No. PS-J-100. For use on SR 5, Lewis County Line to Tumwater."

Real Property Inventory — An itemized list or catalog of all real property or real property interests owned or controlled by the Department of Transportation and located outside the operating right of way limits.

Redemption — The right given to a judgment debtor (and to certain others) to redeem the property foreclosed within a time period specified by statute. The property is subject to the right of redemption from the time of the Sheriff's sale until the Sheriff's Deed is delivered.

Reliction — The uncovering of land formerly covered by water.

Replacement Housing Payment ("RHP") — Any one or certain combinations of payments authorized to be paid to an eligible displacee to enable such displacee to obtain replacement housing. There are five types of authorized payments, as follows:

Incidental Purchase Expense — The amount necessary to pay or reimburse an eligible displacee for certain actual costs incurred incidental to the purchase of an eligible replacement dwelling. These include — but are not limited to — recording fees, escrow fees, title insurance premiums, appraisal fees, credit report fees, revenue stamps and transfer taxes. (Does not include prepayment of any expenses.)

Note: A lender's fee, purchaser's points, loan origination fee or any other debt service charge ("finance charge") is not payable as an incidental purchase expense. Such charge may be payable only as a part of an INCREASED INTEREST PAYMENT or a DOWN PAYMENT ALLOWANCE.

Increased Interest Payment — An amount equal to the "present value" of any increased interest expense determined by applying the respective (old and new) interest rates to the lesser remaining balance and the lesser remaining term, respectively. The "present value" is determined on the basis of a discount rate which is the prevailing rate of interest paid on savings deposits by commercial banks in the general area of the acquired property.

Purchase Supplement — That amount, in addition to the just compensation paid by the acquiring agency, which is necessary to enable an eligible displacee to purchase an eligible replacement dwelling. Synonymous with "Additive."

Rent Supplement — The amount, determined by the displacing agency, necessary to compensate an eligible displacee for the increased cost of leasing or renting an eligible replacement dwelling.

Down Payment Allowance — The amount, determined by the displacing agency, which is necessary to enable an eligible displacee to make a down payment (including incidental purchase expenses) on the purchase of an eligible replacement dwelling.

Satisfaction of Mortgage — Either an instrument or a marginal notation on the face of the mortgage itself which shows that the mortgage lien has been released.

Sheriff's Certificate of Sale — The document given to the purchaser at a Sheriff's sale under foreclosure.

Sundry Site — Any site under the authority of the Department which is used (or is intended for use) for pit, quarry, stockpile, common borrow, riprap, maintenance, park and ride, ferry terminals, airports, etc.

Surplus Property — Property not acquired as operating right of way (e.g., pit sites, maintenance sites, uneconomic remnants, etc.) and no longer needed. Disposal proceeds without a plan revision — unless part of the surplus area is to be used as operating right of way.

Tax Roll — A record of all taxable property which includes the assessed value, the current millage rate and the resulting tax.

Tenancy in Common — A form of co-ownership of real or personal property by two or more persons, without survivorship and property interests pass by devise and descent to the heirs of a deceased co-owner or as directed by the will of the deceased.

Tenancy, Joint — A form of co-ownership of real or personal property by two or more persons permitting the right of survivorship where said property passes to the surviving co-owner(s) without probate proceedings.

Thread of a Stream — The center of the fastest moving part of the main channel of a stream.

Tide Lines — Each day there are two high tides and two low tides. The two low tides are the "short run out" which is called the LOW TIDE, and the "long run out" which is called the LOWER LOW TIDE. By the same token, the two high tides are call HIGH TIDE and the HIGHER HIGH TIDE. The average of all "low" and "lower low" tides is called the MEAN LOW TIDE. The average of all "lower low" tides is called the MEAN LOWER LOW TIDE. The lowest line on the land reached by a receding tide is called the EXTREME LOW TIDE. Likewise, the MEAN HIGH TIDE is the average of all "high" and "higher high" tides; MEAN HIGHER HIGH TIDE is the average of all "higher high" tides; and EXTREME HIGH TIDE is the highest line on the land reached by an incoming tide.

Trial Attorney's Certificate — A statement, signed by the Assistant Attorney General who is assigned to the particular case reciting the findings and orders of a court and certifying that the award is due and payable. The certificate is accompanied by a request for a warrant.

Trial Attorney's Closing Report — A statement, signed by the Assistant Attorney General who is assigned to a particular case, setting forth the circumstances which resulted in the J&D. If the J&D was stipulated, this statement includes the rationale for entering into the stipulation.

3-3 The Acquisition Process

A. Project Scoping

In the early stages, RES personnel may be involved in Interdisciplinary Teams to identify ownerships and participate in analyses of various routes.

The first major Region RES involvement is in preparation of the Preliminary Funding Estimate for a project.

B. Appraisal/Review

A separation of functions maintains the integrity of the acquiring agency's transactions. Thus, the appraisal, appraisal review, and negotiations for a parcel are performed by three different persons. If two or more appraisals are required for a parcel, only one appraisal is assigned to a staff appraiser from the Region in which the parcel is located. The additional appraisals are made by either a staff appraiser from another Region or a fee appraiser. Likewise, the calculation of relocation benefits is done by someone other than the agent who is in direct contact with the displacee. The State's warrants are mailed to the recipients.

Uncomplicated acquisitions of relatively low value (not greater than $10,000) are identified during the Project Funding Estimate process. Administrative offers are prepared for these parcels and an appraisal is not required unless requested by the property owner or if condemnation is commenced.

All other parcels are assigned by the Real Estate Services Manager (RESM) for appraisal. The RESM determines the type of appraisal report and whether the appraisal is to be done by staff or fee appraisers. Appraisal data are input to the computer and upon satisfactory completion, the parcel goes to appraisal review.

The Review Appraiser examines the appraisal to ensure its adequacy and accuracy. The Review Appraiser prepares a Determination of Value (DV) that establishes the just compensation to be paid by the State for the needed property and property rights. The just compensation includes amounts for the value of the lands and improvements acquired for the project, uneconomic remnants, damages, and deductions for special benefits. DV data are input to the computer; thus, enabling the negotiations process.

C. Negotiations

When the approved DV is available, the RESM assigns the parcel for negotiations. The negotiator works with all parties to achieve a negotiated settlement at just compensation for the needed property and property rights.

The negotiator makes the State's offer both orally and in writing to the property owner or his representative. The negotiator keeps a diary of all contacts and events in such detail that he can attest to the facts therein.

Occupants must be given timely written notice of their right to receive relocation assistance. Therefore, the negotiator immediately notifies the RESM of the date of initiation of negotiations on the parcel.

Upon conclusion of satisfactory negotiations, the negotiator obtains execution of necessary instruments and vouchers by all interested parties. The parcel file is reviewed in Region, computer inputs are made, and the file is transmitted to Headquarters.

Occasionally, a minor issue will stand in the way of completing a negotiated settlement. If the appropriate authority gives its prior approval, an administrative settlement may be arranged. The justification for an administrative settlement is documented in the parcel file, computer inputs are made, and the file is transmitted to Headquarters.

D. Condemnation

After at least three unsuccessful attempts to reach an amicable settlement, it may become necessary to condemn the parcel. The Region prepares the file including names and addresses of all interested parties, makes computer inputs and transmits the file to Headquarters.

Upon arrival in Headquarters, the parcel file is subjected to review and pre-audit in the Title and Condemnation Section. When all is in order, a negotiated or administrative settlement is approved by the DRES, inputs are made to the computer, and the Real Property Vouchers are submitted for payment.

When the Region submits a parcel for condemnation, the file is reviewed by the Title and Condemnation Section. If two or more parcels are to be condemned on a project, they may be combined into a single "blanket condemnation" proceeding. The Title and Condemnation Section assembles the condemnation package, makes computer inputs and transmits the files to the Office of the Attorney General (AG). Upon receipt, the AG becomes solely responsible for the eminent domain proceeding; however, he will often call upon both Region and Headquarters personnel for assistance, concurrences, etc. The AG makes computer inputs that indicate the status and disposition of the case.

E. Closing

The state's payment becomes available to the property owner by one of the following means:

- Mailing the state's warrant to the property owner,
- Closure in escrow,
- Payment to the registry of the court.

Instruments are recorded or filed with the court and title passes when the money changes hands. The Title and Condemnation Section inputs the "Payment Available Date" into the computer. The "Payment Available Date" triggers the RESM to input property management and relocation assistance information into the computer system for the acquired parcel.

F. Property Management

Region property management functions include such activities as rental agreements with occupants, salvage and removal of improvements, and maintenance to avoid the creation of a public nuisance. When no one other than the State has a valid interest in any improvements on the acquired parcel, Region RES inputs the "P/M Certified Clear Date."

G. Relocation

Region relocation activities are those related to moving all displacees and their personalty from the acquired parcel. Eligible occupants are given written notices of the maximum amounts of their replacement housing payments. Eligible tenants are given written notice that the acquiring agency has acquired the property. When an eligible occupant moves from the acquired parcel, the RESM inputs the "Vacated Date."

H. Certification

The final step in the process is to certify the project as clear for construction. This must be done prior to the Contract Ad Date. When all parcels on the project have been acquired, the project can be certified to the FHWA as clear for construction. This is done by the normal process. Some projects will be certified with exceptions. Certifications with exceptions should be rare and approved in advance. Certifications with exception must be followed by a "clear" certification when all acquisition is complete.

3-4 Why We Do What We Do

3-4.1 Revised Code of Washington

Chapters 8.25 and 8.26 RCW are the State laws that control the acquisition process. The intent of these laws is: to assure fair and equitable treatment of displacees, and to encourage and expedite acquisitions by negotiations. These laws require that Real Estate Services personnel know and do many things:

A. Appraisal

1. The real property must be appraised. This includes the land and all improvements on or adversely affected by the acquisition.
2. The property owner must be given an opportunity to accompany at least one of the acquiring agency's appraisers during inspection of the property.
3. Any increase or decrease in value due to the proposed project is ignored in appraising the fair market value of the property.
4. Physical deterioration within the control of the owner is not disregarded.
5. Uneconomic remnants are identified and valued.
6. Since the improvements may belong to a tenant, improvements are valued at both their contribution to the fair market value of the real property and at their fair market value for removal from the real property. This is done because the tenant will be offered the greater of these values for tenant-owned improvements.

7. In the report, the appraiser itemizes the opinion of the fair market value of the land, improvements and uneconomic remnants; and damages and special benefits to the remainder.

B. Appraisal Review

1. The acquiring agency establishes the just compensation. The just compensation is not less than the agency's approved appraisal of the fair market value of the property.
2. The written statement of the just compensation itemizes the amounts for the land, improvements, damages, special benefits, and uneconomic remnants. Special benefits are a deduction.
3. The amount shown for tenant — owned improvements is the greater of their contribution to the fair market value of the real property or their fair market value for removal from the real property.

C. Negotiations

1. The date of initiation of negotiations cannot precede the date of establishing the just compensation. For WSDOT this means that an approved DV must be available before negotiations can begin.
2. Every reasonable effort is made to acquire real property expeditiously and by negotiations.
3. No coercive action is taken to compel agreement on the price.
4. The acquiring agency promptly offers to acquire the property for the full amount of the just compensation.
5. The acquiring agency provides the property owner with a written statement of the just compensation. This statement itemizes the amounts for the land, improvements and damages, and deductions for special benefits.
6. The acquiring agency offers to purchase any uneconomic remnant.
7. The acquiring agency pays an evaluation allowance (not exceeding $750 per parcel) to defray the actual and reasonable costs of interested parties' evaluation of the agency's offer.
8. The acquiring agency pays the property owner's fair and reasonable expenses for:
   a. Recording fees, transfer taxes, and other expenses incidental to conveying real property.
   b. Penalties for full or partial prepayment of any preexisting mortgage.
   c. The prorated portion of any prepaid real estate taxes that are allocable to the earlier of the date of vesting title in the acquiring agency or the date of the agency's acquiring possession of the property.
9. The owner is not required to surrender possession of real property before the payment is made available.
10. Construction is scheduled so that no occupant is required to move without at least 90 days written notice of the vacation date.

11. No occupant is required to move from his dwelling until the acquiring agency has determined the rents, prices and availability of qualified replacement housing.
12. Temporary occupancy after acquisition is by rental agreement at economic rent.
13. If it becomes necessary to condemn the property, the acquiring agency files the proceedings. The property owner is not forced to file an inverse condemnation.
14. If the tenant owns the improvements:
    a. Payment for the improvements may not result in duplicate payments.
    b. The land owner must disclaim all interest in tenant-owned improvements.
    c. The tenant is offered the greater of the improvement's contribution to the fair market value of the property or the fair market value of the improvements for removal from the real property.
    d. In accepting the offer, the tenant must transfer all rights, title and interest in the improvements to the acquiring agency.
    e. The tenant is not obligated to accept the acquiring agency's offer.

D. Property Management

After payment becomes available to the owner, continued occupancy is through execution of a rental agreement at economic rent.

E. Relocation Assistance

1. The relocation assistance advisory program:
    a. Determines the need for relocation assistance by displacees.
    b. Provides current information on availability, prices and rentals of DSS housing and commercial properties.
    c. Assists a displaced resident, business or farm in obtaining and becoming established in a new location.
    d. Provides other advisory services to minimize hardships on displacees.
    e. Coordinates relocation activities with other agencies to assure the compatibility of the relocation concepts, aims, objectives, actual relocations and land use plans.
2. The acquiring agency must assure that:
    a. Relocation assistance and payments are provided fairly, reasonably, and uniformly.
    b. Eligible displacees are paid promptly, or, in hardship cases, in advance.
    c. Prior to displacement, there are enough qualified dwellings available to fill the needs of all displacees.
    d. Any aggrieved party may have their case reviewed by the executive head of the acquiring agency.

3. Every eligible displacee receives a choice of one of the following moving expense payments:
   a. Actual and reasonable expenses for:
      (l) Moving the personal property owned by the displacee, family members, business, farm, or nonprofit organizations.
      (2) Other related moving costs as described in Chapter 12 of this manual.
   b. A residential moving expense payment per schedule established by WSDOT of $150 per eligible room, plus a dislocation allowance of $300.
   c. A business or farm may receive a payment equal to its average annual net income over the last two tax years prior to displacement (but not less than $1,000 nor more than $20,000). A business cannot receive this payment unless:
      (l) It cannot be relocated without a substantial loss of patronage.
      (2) The business does not have more than three other establishments engaged in the same business.
      (3) The business has personal property that must be moved.
4. The occupant of a dwelling may receive a replacement housing payment as follows:
   a. If the displacee has been the owner-occupant for at least 180 days prior to the date of initiation of negotiations, and if the displacee buys and occupies decent, safe, and sanitary (DSS) housing not later than one year from the later of the date on which final payment is received or the date the displacee moves from the acquired property, the replacement housing payment may include:
      (l) Purchase price supplement as determined by WSDOT standards, up to a statutory maximum of $22,500.
      (2) Increased interest expense.
      (3) Title, recording, and certain other closing costs for the replacement housing.
   b. If the displacee has been the legal occupant for at least 90 days prior to the date of initiation of negotiation and if the displacee rents and occupies DSS housing not later than one year from the date the displacee moves from the acquired property, the replacement housing may include:
      (l) Rent supplement as determined by WSDOT standards up to a statutory maximum of $5,250, or
      (2) Down payment to purchase a DSS dwelling; however, the down payment cannot exceed the rent supplement as determined by WSDOT.

5. The payments in 3 and 4, above, are not income for tax purposes, social security eligibility, or welfare eligibility — except that the rent supplement payment may be considered in determining the shelter allowance in the welfare program.
6. If sufficient comparable DSS rentals or sale housing is unavailable, the acquiring agency must provide housing under the provisions of Housing of Last Resort described in Chapter 12.

3-4.2 Washington Administrative Code

Chapter 468-100 WAC contains the administrative regulations pertaining to the acquisition process. WSDOT promulgates these regulations to assure implementation of the RCWs. Their principal impact is on the relocation assistance program.

3-5 County Identification

The counties of the State of Washington have been given both letter and number designations. Examples of the use of these identifiers are as follows:

A. The county number forms the first two digits of the Control Section (CS) number; e.g., CS 0101 identifies: SR 90, Grant Co. Line to Jct. SR 395 S. of Ritzville, SR MP 191.89 to 220.49, Interstate, in Adams County.

B. The county letter is used in the Real Property Inventory as a part of the Inventory Control Number; e.g., 3-J-00001 identifies the first item in District 3's real property inventory for Thurston County.

C. The county letter is used in the identification of certain sundry sites; e.g., PS-P-123 identifies a pit site in Whitman County. The three numeric digits are a serial number assigned by the department to the site.

3-6 The Right of Way Agent as a Notary Public

If the Right of Way Agent's duties require the services of a Notary Public, the State will secure the necessary commission and seal. The R/W Agent notifies the Supervisor sufficiently in advance of the expiration date to allow the State time to have the seal renewed before it expires.

The jurisdiction of the R/W Agent as a Notary Public extends to all counties of the State of Washington.

The opening statement of each certificate of acknowledgment is "STATE OF WASHINGTON, County of_____," which the acknowledgment is taken.

Beneath the signature of the Notary Public is a space provided for entry of the name of the city, town, or rural community having a post office, which is the place of residence of the Notary Public. Should the Notary Public change the place of residence, he/she must immediately notify the:

Department of Licensing
Highways-Licenses Building, PB-Ol
Olympia, Washington 98504

Attention: Professional Licensing — Notary Public

Licensing will require the Notary's name, former address, new address, and seal number.

Note that the Notary's seal is invalid from the time of any change of place of residence until the time a new place of residence is on file. Therefore, the R/W Agent must make the above notification promptly.

Usually, by the time the transaction has proceeded to the point of the execution of any instruments, the R/W Agent will know the persons signing the instruments sufficiently well to avoid perjury by stating "....to me known to be the individuals....." Should the Notary not know any person signing an instrument, they must require proof of identity. If the R/W Agent is not satisfied with the identity of a person, he/she must refuse to take the acknowledgment and seek the services of another qualified officer who does know the person in question. In 84 Wn. 2d 360 (1974) the State Supreme Court held that:

> "The Notaries were responsible for reasonable care in learning the identity of the persons signing the documents. Although a Notary does not insure the identity of a person signing, when a signature proves forged the Notary has the burden of proof that a proper standard of care was used."

The Notary must be satisfied that each person signing an instrument is sane and knows the consequences of their act.

Various sizes of gold foil disks are available at stationery stores. If the Notary elects to use these disks, care must be taken that none of the wording of an instrument and that no part of the signatures are covered.

A method of causing the imprint of the seal to reproduce more clearly is to place a sheet of the pencil carbon paper from the State snap-out form vouchers face down on the instrument and impress the seal through it. A rubber stamp may also be used as a notary seal.

Chapter 4 Appraisal

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Appendix Report Guide Appendix 4-1

This chapter outlines typical appraisal tasks and responsibilities. The Washington State Department of Transportation (WSDOT) Appraisal Guide, Appendix 4-1, provides detailed technical requirements for appraisals.

4-1 Policy

The Director, Real Estate Services (DRES), establishes WSDOT appraisal policy. This policy assures compliance with state and federal laws and regulations governing real property acquisition under eminent domain.

4-2 Project Funding Estimates

A Project Funding Estimate (PFE) is a detailed parcel-by-parcel estimate of total expected right of way acquisition costs. Ideally, it is completed by an appraiser, an appraisal reviewer, and a relocation expert. The PFE is entered into the Real Estate Information System (REIS) which produces a summary report. Through REIS, the region can update the PFE as needed. The PFE is used to obtain authorization and funding for the project.

4-2.1 Rules

A. A PFE is prepared for every project in which right of way will be acquired.

B. As a minimum, the PFE contains the following information:

1. A parcel-by-parcel list of right of way costs.
2. A notation on every parcel with a listing on the Hazmat Database. This information is to be included in the appraisal and the Determination of Value.
3. A total project right of way cost summary.
4. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost to cure documentation, Assumptions and Limiting Conditions, and Acquisition Appraisal Salient Information.

   Note: The PFE Parcel Worksheet is not a part of the data package.

C. The PFE is transmitted by a cover memorandum containing a brief explanation of the material and a request for funding action.

D. Subsequent to funding action (assignment of a *right of way number*), any supplemental requests for significant fund changes or additions/deletions of parcels are submitted as separate PFEs per "A" above.

E. At a minimum, four (4) complete copies, including data package, shall be distributed as follows:

RES Manager, Region	(1)
Appraisal, Region	(1)
Negotiation, Region	(1)
Headquarters Appraisal	(1)

F. One (1) copy each of the PFE without the data package shall be transmitted to Headquarters Relocation Assistance and Region Program Management.

G. Exceptions to the PFE procedures may be made with the written concurrence of the Assistant Director, Appraisal Program.

4-2.2 Procedures

The Agent assigned to do the PFE completes the estimate as follows:

A. Inspects the project and becomes familiar with the engineering features of the plan.

B. Views individual parcels to determine the effects of acquisition.

C. Prepares a Neighborhood and Project Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.

D. Gathers sufficient comparable land sales, listings, and/or assessment information for the various types of parcels and remainders within the project.

E. Prepares project vicinity map.

F. Prepares *PFE Parcel Worksheet* (Form RES-215) for each parcel on the project.

G. Includes any applicable damage studies.

H. Includes cost-to-cure documentation for estimates and/or bids.

4-3 Appraisals

This section outlines typical appraisal administration and responsibilities.

4-3.1 Appraisals, Authorization

WSDOT may authorize acquisition appraisals after the following:

A. Normal Approval

1. The corridor hearing has been held.
2. The final environmental approval has been obtained.
3. The *Right of Way Plan* showing the parcels to be appraised has been submitted.

B. Special Approval

Early appraisals may be completed on a parcel-by-parcel basis if “Hardship Acquisition” or “Protective Buying” has been authorized.

Appraisals may be completed prior to final plan and/or environmental approval if the circumstances warrant this action. Discretion is advised as this may have an impact on federal funding, if any.

4-3.2 Number of Appraisals

A. Acquisition Appraisals

1. Each parcel to be acquired by negotiation must have at least one appraisal except as provided under 4-3.3. Additional appraisals may be required due to the complexity of the appraisal problem. It is the responsibility of the Review Appraiser to determine if more than one appraisal will be required.
2. Each parcel to be acquired by donation need not have an appraisal if the donor waives it.
3. Regardless of estimated just compensation amount, each parcel submitted to Headquarters for condemnation will be appraised. A Determination of Value (DV) prepared by a review appraiser must be transmitted with the parcel.

B. Surplus Property Appraisals

1. All surplus real property and/or real property rights with an estimated value in excess of $10,000 must have at least one appraisal prior to disposal by sale or trade. The Review Appraiser may require additional appraisals due to the complexity of the appraisal problem.
2. All surplus real property and/or real property rights with an estimated value of $10,000 or less can be reported as such using a memorandum form. Requirements are found in Chapter 11.
3. WSDOT-owned real property and/or real property rights to be rented or leased may have fair market rent supported by memorandum with supporting data attached as necessary. It is the responsibility of the Assistant Director Appraisal and Appraisal Review or the Region Appraisal Supervisor to determine whether the appraisal problem complexity requires a formal appraisal in such instances.

4-3.3 Waiver of Appraisal

A. Rules

1. The department, at the discretion of the Region RES Manager (RESM), may elect to waive the requirement for an appraisal if the valuation problem is uncomplicated and the compensation estimate indicated on the PFE is $10,000 or less, inclusive of cost-to cure items.
2. The *Fair Offer Letter* must make the property owner(s) aware that an appraisal has not been done on the property and that one will be completed if they desire.
3. Special care should be taken in the preparation of this form. Because no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

B. Procedures

1. An Administrative Offer Summary (AOS) (Form RES-216) is prepared using data from the project data file or other appraisals of comparable properties.
2. The AOS is submitted to the RESM or the Region Appraisal Supervisor for approval.
3. The RESM or Region Appraisal Supervisor signs the AOS authorizing a first offer to the property owner(s).
4. The original AOS is forwarded to the Assistant Director, Appraisal Program. A copy is sent to the Region Negotiation Supervisor for preparation of the offer.

4-3.4 Appraisal Assignment

The Region assigns/contracts for appraisal and specialist reports. Staff appraiser assignments are made using the Staff Appraiser Assignment (Form RES-203). Fee Appraisers and Specialists are contracted using the Personal Services Contract. For personal service contracting procedures and administration, see Chapter 1, Section 22.

A. The assigned appraisal form must match the complexity of the appraisal problem.

B. Appraisal assignment/contract data is entered into REIS.

C. Qualified state staff, when available, must be utilized before private consultants can be contracted.

4-3.5 Distribution of Appraisal Reports

A. Prior to review, an original and three copies of the appraisal reports are submitted to the Senior Appraiser with a fourth copy retained by the appraiser. The Region Appraisal Supervisor:

1. Stamps each appraisal with the date it was received in region.
2. Updates REIS as necessary.
3. Distributes the reports as follows:
   a. Original to the Assistant Director, Appraisal Program for inclusion in the Headquarters parcel file.
   b. One copy to the region parcel file.
   c. One copy to the review appraiser.
   d. One copy for the negotiator.

B. WSDOT appraisal reports are confidential and are not made available to nonemployees unless directed by the DRES, the Appraisal Program Manager, or the State Attorney General.

4-4 Special Appraisal Situations

4-4.1 Plan Revisions

When a *Right of Way Plan* revision occurs, a new appraisal and/or new DV may be required.

A. If the parcel has not been acquired, the Appraisal Supervisor contacts the Review Appraiser to determine if a new or revised parcel appraisal is required.

1. If a new or revised appraisal is not required, the Review Appraiser will write a new DV based on the new map and the previous appraisal. (See Chapter 5, Review.)
2. If a new or revised appraisal is required by the Review Appraiser, the Appraisal Supervisor assigns and/or contracts accordingly.

B. If a plan change requires the acquisition of additional rights from a parcel that the department has already completed an acquisition on, then a new parcel number, PFE, and appraisal are required.

4-4.2 Damage Claims

The Region Appraisal Supervisor assigns or contracts the appraisal of damage claims (e.g., inverse condemnations) upon authorization by the DRES.

4-4.3 Advertising Signs

A. Tenant-owned signs (realty) in the acquisition are appraised as tenant-owned improvements. The appraisal shall report the following:

1. The contribution value of the sign.
2. The orderly liquidation (salvage) value of the sign.
3. The cost to move the sign onto the remainder (if a partial taking).

B. Fee-owner signs (realty) located in the acquisition are evaluated as fixtures. The appraisal shall report the contribution value of the sign and the cost to move the sign onto the remainder (if a partial taking).

C. Signs that are located outside the right of way are appraised only as authorized by the DRES or the Assistant Director, Appraisal Program.

4-4.4 Other Types of Appraisal Problems

A. The following are examples of when the DRES should be consulted for direction:

1. Railroad properties.
2. Properties owned by a public agency.
3. Aquatic lands or wetlands.
4. City street rights of way.

B. Private Access Easement for Transfer

When a R/W plan shows an "Access Easement for Transfer" across a private owner (A), the servient tenement, to serve another single private owner (B), the dominant tenement, we cannot condemn for the easement. We cannot use public money to provide private access to a third party because this situation is not a **public use**, as defined in R.C.W.8.04.070.

1. The appraiser prepares a two-premise report for each property. The Before description and valuation is the same for both premises. The After description and valuation is different.

   a. For Owner A, the first premise in the After situation is without the easement. The second premise in the After is with the easement.

   b. For Owner B, the first premise in the After situation is without the easement from Owner A. The second premise in the After is with the easement from Owner A.

C. Well and Septic System Agreements

When a portion of a well, well radius, or septic system falls within the proposed R/W acquisition, it may be appropriate for the RESM to allow the use of an Agreement to replace the private utility rather than obtain a cost to cure.

The appraiser who prepares the appraisal, should first determine the feasibility of the replacement. An investigation should be made for adequate areas, setback requirements, soil conditions, etc.

If the system is not feasible, then other avenues of solution must be taken.

If there are public or community utilities within the area, the cost of the hookup to that utility should be investigated as a possible alternative.

D. Asbestos

When buildings to be totally or partially acquired are suspected to contain asbestos, the Region Appraisal Supervisor:

1. Requests that the Region Project Engineer contract for asbestos sampling and testing of such buildings per these priorities:

   a. High Priority—All buildings designed/constructed for human occupancy/use, except single-family dwellings. Asbestos sampling/testing reports on these buildings are provided to the parcel appraiser for consideration during the appraisal process (see also 2 below).

   b. Low Priority—All single-family residences. Asbestos sampling/testing reports on these need not be considered by the parcel appraiser during the appraisal process unless the typical market would do so.

2. Positive asbestos sampling/testing reports on High Priority buildings require the services of a specialist (Industrial Hygienist) for an estimate of the cost of mitigation. The mitigation estimates needed are:

   a. For affected buildings lying totally within the right of way or likely to be totally taken, the costs needed are:

      (l) Removal of the asbestos from the entire building.

      (2) Encapsulation of the asbestos for the entire building.

   b. For affected buildings lying partially within the right of way and which will likely be rehabilitated in place, the costs needed are:

      (l) Removal of asbestos that will be disturbed during rehabilitation.

      (2) Encapsulation of asbestos that will be disturbed during rehabilitation.

3. Positive asbestos sampling/testing reports on Low Priority buildings do not require mitigation cost estimates. However, such positive reports are to be provided to the Region Negotiation Section and Property Management Section prior to the occurrence of any of the following:

   a. Offering owner the option to retain the building for salvage.

   b. Rental of the building to the owner, occupant, or any tenant after acquisition.

   c. Any sale that includes ownership of the building.

   d. Demolition of the building.

4. The Region Appraisal Supervisor assures that copies of all positive asbestos sampling/testing reports are available to the Project Engineer.

E. Toxic/Hazardous Waste Situations

The Region Appraisal Supervisor consults the project environmental impact statement and/or the project design report for information. If toxic/hazardous waste is present in the project alignment, it should be tested and mitigation costs estimated prior to the PFE. The Region Appraisal Supervisor assures that any positive testing and mitigation cost estimates are forwarded to the parcel appraisers for consideration during the Project Funding and/or appraisal processes.

1. Lacking definite information on hazardous/toxic waste contamination from the Project Design report or the EIS, the appraiser is vigilant during field inspection of parcels or owner contacts for indications of possible contamination such as:
   a. Evidence of spillage;
   b. Odd odors or soil colors;
   c. Evidence of burial;
   d. Discolored, missing, or dead vegetation;
   e. Dead animals or birds; and
   f. Suspicious drums, tanks, or containers.
   g. Any above or underground storage tanks.
2. If the appraiser suspects the presence of hazardous/toxic waste on a parcel, the following actions are taken:
   a. The appraiser reports suspicions in writing through the Region Appraisal Supervisor to the Region Environmental Unit;
   b. The Assistant Director, Appraisal Program is consulted on how to proceed with the appraisal;
   c. If waste is found, the cleanup costs reported by the environmental unit are considered by the appraiser during the appraisal process.

4-5 Responsibilities

4-5.1 Region Appraisal Supervisor

The Region Appraisal Supervisor's responsibilities include the following:

A. Obtain estimates, specialist's reports, and appraisals in advance of negotiations by making staff assignments or contracting private consultants.

B. Provide the appraiser with: identification of real property and fixtures to be appraised; engineering data; specialist reports; information from the environmental impact statement (EIS) and/or project design report regarding hazardous/toxic waste and/or asbestos.

C. Update projects, parcels, Project Funding Estimates, appraisal assignments, and appraisal completions in the REIS computer system.

D. Supervise appraisal staff.

E. Negotiate contracts with fee appraisers and specialists, and oversee their completion.

F. Act as liaison between Review Appraiser and appraiser regarding review and/or rejection of appraisal reports.

G. Act as liaison between the Attorney General's Office and staff appraisers.

4-5.2 Appraiser

The appraiser's responsibilities include the following:

A. Appraising items of property that have been identified as real estate fixtures. The appraiser itemizes and considers the fixtures in the report.

B. Performing and reporting in conformance with:

   1. Either the Staff Appraiser Assignment (Form RES-203) or the Personal Services Contract.

   2. The Certificate of Appraiser (Form RES-205).

   3. Instructions peculiar to the specific assignment.

C. Providing acceptable written appraisals or estimates in accordance with the Appraisal Guide (Appendix 4-1).

D. Providing appraisal revision and corrective action as requested by the Review Appraiser.

E. Coordinating appraisal matters with legal staff at pretrial conferences.

F. Appearing as an expert witness for the WSDOT.

G. May act as negotiator as well as appraiser on parcels with $10,000 or less just compensation.

Part I Evaluation Guidelines

A. Departmental Standards

1. An appraisal is 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. The format and level of documentation for an appraisal are dependent on the complexity of the appraisal problem to be solved. An acceptable appraisal report is one which fulfills all the requirements of this *Appraisal Report Guide* and contains factual support and sound reasoning for conclusions drawn. An appraisal may fulfill all requirements of the *Appraisal Report Guide* as to data contained, etc., and not be acceptable because of inadequate investigation or interpretation of market facts and/or unreasonable judgment of such facts.

2. Except as provided in RCW 8.26.180(2), the Real Estate Services Office shall appraise all properties affected by WSDOT highway projects prior to negotiations for purchase of property rights required for highway purposes. Appraisals shall be made to determine the value of the property rights sought by the state, basing such determination on the legally compensable amount of the fair market value lost to each separate ownership by virtue of the WSDOT's highway project plan. All policy in this connection is governed by a constitutional provision of the Washington State Constitution; specifically, Amendment 9, Art. 1, Section 16 Eminent Domain, which reads in part: "No private property shall be taken or damaged for public or private use without just compensation having been first made, or paid into court for the owner, etc."

3. The policy designed to carry out the requirement for the payment of just compensation is not personal in its context. It is not a limitation on the person whose property may be taken, but a limitation on property taken for public use. The sole restriction or limitation is to preserve for the owner a right to "just compensation." It is for the property taken and not to the person whose property is taken. Evaluation in both the before and after instances is to be based on "fair market value" and not "value in use," i.e., ordinary value of the real estate in the open market to people generally and not special value to a particular owner or special value to a particular operation due to some individualistic peculiarity of the operation. "Fair market value" is the amount in cash which a well-informed buyer, willing but not obliged to buy the property, would pay, and which a well-informed seller, willing but not obligated to sell it would accept, taking into consideration all uses to which the property is adapted or may be reasonably adaptable. The mathematical difference between the two values (market value "before" minus market value "after") is the just compensation after adjusting for items that are not compensable under the law. The "after value" is based on the value of the remainder property assuming that the actual construction of the proposed project will not be completed until an estimated future date. Any temporary inconvenience during or caused by, the actual construction of the project is not considered in the appraisal. Fair market value shall normally be that of fee simple title.

4. The public, which must bear the burden of these public projects designed to safeguard and protect the private property of all, should be assured that the compensation awarded shall be just and not generous; shall be adequate but not a windfall; and shall approximate what it can reasonably be assumed the property would bring in cash, in an open market exchange to a willing seller and under normal bargaining procedure.

5. The property owner has the legal right to inspect the property with the appraiser. Every effort should be made to ensure that the property owner has been extended that opportunity for a joint inspection.

B. Total Acquisition

When WSDOT's highway project plans necessitate acquisition by WSDOT of an entire ownership, just compensation is the fair market value of the property, taking into consideration as part of the property such improvements that have been determined to be real property, evaluated as of the date of appraisal.

If a tenancy is involved, the tenant-owned real property improvements are evaluated as of the date of the appraisal and as they contribute to the market value of the property or their value for removal, whichever is greater.

C. Partial Acquisition

1. General

When the WSDOT's highway project plans necessitate acquisition by the state of less than a total ownership, just compensation for the rights to be acquired is the difference between the fair market value of the entire ownership prior to the acquisition and the fair market value of any portion thereof not required by the state's highway project plans after adjusting for items that are not compensable under the law.

a. Both evaluations ("before" and "after") are based on fair market value as of the date of appraisal by the state. Before and after values reflect the amount which one buyer would pay and which one seller would accept under the value definition.

b. If the market evidence reveals no difference between the value before and the value after the acquisition, the Appraiser reports the facts dictated by the market. The Appraiser is not obligated to report a difference when none exists in fact. The Appraiser is obligated to report only the facts and conclusions based purely on appraisal considerations.

c. If a tenancy is involved, the tenant owned real property improvements are evaluated as of the date of the appraisal and as they contribute to the market value of the property or their value for removal, whichever is greater.

2. Benefits

In this state, it is necessary to differentiate between and understand three concepts wherein value may be created by a pending highway improvement in order to properly treat same in right of way acquisition. The three concepts are defined as follows:

a. Enhancement. Increases in real estate values in advance of right of way acquisition created by knowledge of a pending highway improvement.

b. Special Benefits. Value accruing to the remainder of a property by reason of acquisition and use by the State of a portion of such property where such value is special to said remainder and not enjoyed by the general public. Benefits may be special although other owners on the facility receive similar benefits.

c. General Benefits. Washington law does not clearly define general benefits. Because of this we have only attempted to explain special benefits and will assume that any benefits which are not "special" may be properly considered to be "general" benefits.

Appraisers' market studies must be sufficiently encompassing to enable them to detect both adverse and beneficial effects on property values in the path of prospective highway improvements. They need to be able to demonstrate and evaluate such effects, thereby avoiding a reporting of value conclusions which would tend to penalize a property owner where values were depressed or to penalize the general public where values were enhanced by knowledge of a pending highway improvement. However, maintenance within the control of the owner or tenant must be considered in estimating the market value of a property.

Appraisers' market studies must also enable them to detect special and general benefits to remainders and to differentiate where special benefits are present, explaining their reasoning.

3. Damages

a. General

(1) Damage is the mathematical difference between the value of the remainder after the acquisition and the value of the remainder as a part of the whole prior to the acquisition if no benefits are found to exist.

(2) The Appraiser is required to fully explain the physical facts which cause the remainder to suffer a loss in value (damages) and the market facts which justify such a conclusion.

b. Mitigation of Damages

(1) WSDOT may negotiate for the purchase of property outside the right of way for the purpose of mitigating a portion or all of the damage to remainders in various circumstances when such mitigation can be shown to create a saving to the state. The amounts of such savings are determined by appraisal techniques and documented by confirmed factual cost data secured by the department.

(2) Certain types of mitigation may not be allowed in legal actions. The Region Appraisal Supervisor consults with the Attorney General Division when in doubt.

(3) An improvement lying partially within the right of way to be acquired is considered as taken in total unless it is found that such improvement may be rehabilitated in place and thereby preserve its utility. In the latter case, there must be a showing that: (a) from the standpoint of the prudent person, such rehabilitation would be the typical action, and (b) such rehabilitation is economically justified. A two premise appraisal is necessary showing compensation (1) assuming no rehabilitation, and (2) assuming rehabilitation has been accomplished.

The Region Appraisal Supervisor secures bid(s) from reliable contractor(s) indicating the cost of rehabilitation.

c. Modification of Project Plans

The Appraiser, or Region Appraisal Supervisor, reports in writing to the Region RESM any justified construction items that would mitigate damages.

d. Uneconomic Remnants

An uneconomic remnant is a remaining portion of a property in which an owner is left with an interest that WSDOT determines has little or no utility or value to the owner.

WSDOT has a concern for those owners who are at risk and must sell such a remnant to a third party in order to break even or who must undertake a totally new business in order to take advantage of a changed highest and best use. The determination of such remnants is the responsibility of the Review Appraiser (see Chapter 5).

e. Damage Items Not Compensable

There are certain items which are not compensable under the law. Approved just compensation and appraisal reports secured by the department exclude compensation for damage items not compensable under state law. Following is a list of some of the noncompensable items.

(l) Annoyance and inconvenience suffered by the public in common.

(2) Injury to business.

(a) Generally: including loss of profits due to necessity of removing the business to some other location and loss of profits due to interruption of business by reason of and during the course of construction of the public improvement.

(b) Where the type of business is an integral part of or closely related to the land itself, the nature and amount of business and the income therefrom may be admissible as bearing directly upon the value of the land.

(c) Chapter 8.26 RCW authorizes the Transportation Commission to make specified payments for displacement and relocation. Such payments are not part of just compensation and are not to be considered during the appraisal process.

(3) Expenses for moving private and business personal property or for damages arising from the owner's inability to locate an acceptable substitute location are not a part of just compensation (27 Am. Jur. 2d Eminent Domain Sec. 293).

(4) While an abutting owner has a right to ingress and egress, the loss of which will be compensated where there is either a physical injury to the property or impairment of the access, there will not be compensation when the state, by proper exercise of its police power, installs traffic control devices and there results:

(a) A rerouting or diversion of traffic;

(b) A decrease in the amount of traffic on the highway;

(c) Circuity or impairment of travel caused by a divided highway.

(5) In general, all those types of damages such as can be considered potential, speculative, and remote, being uncertain and difficult to ascertain, are not to be considered.

f. Damages or Benefits to Property Before Acquisition

Any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. RCW 8.26.180.

Part II Specifications

A. General

In the appraisal of real estate for the purpose of acquiring right of way, the considerations are generally confined to estimating Fair Market Value.

B. Rules for Form Choice

1. The Region Appraisal Supervisor:

   a. Preferably at the project funding stage, but prior to parcel appraisal assignment, and in conjunction with the Review Appraiser and property owner:

      (1) Identifies any real estate specialty items such as trade fixtures and/or equipment. These are to be evaluated as to their Fair Market Value contribution to the whole property. For complex items an expert is contracted to do a specialist's report. Such a specialist's report is provided to the appraiser of the parcel for consideration in the appraisal.

      (2) In the case of tenancy, identifies any tenant-owned real property improvements. If a condemnation clause appears in the lease, the Region RESM is notified and requested for advice on how to proceed. If the items are compensable (no condemnation clause) they are to be evaluated under the following two premises, disregarding any right or duty to remove them by the tenant:

         (a) The Fair Market Value which such item(s) contribute to the Fair Market Value of the whole property;

         (b) The Fair Market Value of the item(s) for removal (orderly liquidation value).

         If the tenant-owned real property improvements are of a complex nature they are usually evaluated by an expert in a specialist's report. The Appraiser of the parcel must consider their Fair Market Value Contribution to the whole property based on the higher of the above two premises.

   b. Obtains any needed legal opinions or appraisal instructions.

   c. Obtains any other needed specialist reports (e.g., timber cruises, costs to cure, etc.).

   d. Reviews and approves (for contract compliance) the specialist's report by signing and dating a Certificate of Specialist in the blank provided.

   e. Provides (as appropriate) to the Appraiser:

      (1) Either Staff Appraiser Assignment (Form RES-203) or appraisal contract.

      (2) Right of way plans, profiles, and cross sections.

      (3) Any specialist's reports, legal opinions, and/or special instructions that may be necessary.

      (4) Title report(s).

      (5) Necessary printed report forms.

      (6) Appraisal Report Guide (Appendix 4-1).

2. All reports are printed or typewritten. Title reports and other materials are submitted in the Addenda.
3. Each item in the appraisal report is numbered and contains the information called for by the similarly numbered item in the Appraisal Report Guide.
4. Beginning with page 2, the following are either typewritten or printed at the bottom of each page of the report:
   a. Appraiser's/Specialist's name.
   b. Consecutive page numbering.
   c. Parcel number or numbers of the ownership.
5. The Appraiser includes an analysis of the specialist's report within the text of the appraisal report. Items or amounts shown by the specialist are not arbitrarily adopted by the Appraiser, but are considered as to their possible contribution to or diminution of the subject property's value. The specialist's report is included in the Addenda of the appraisal report regardless of the extent to which the data are used.
6. The Appraiser offers the property owner the opportunity of accompaniment at the time of the property inspection. A *Report of Contact With Owner* (Form RES-204) is completed, reporting such contact and inspection, and is included in the Addenda of each appraisal report.
7. Appraisal and specialist reports are assembled as shown in Appendix 4-1, Tabs A through F. The completed report is stapled in the upper left-hand corner only. The report is not placed in a folder.
8. The original and the number of copies agreed to by the contract are signed and submitted to the assigning Region Appraisal Supervisor. Unless otherwise specified, an original and three copies of each report are required.

C. Deciding Which is the Correct Type of Appraisal Form

The acquiring agency must base its appraisal form choice on the magnitude of the appraisal problem. The quick-reference chart below outlines the choice requirements:

Form	Conditions	Requirements
(None)	No appraisal is required if released by the property owner when a donation situation.	Owner must be informed of the right to receive just compensation based on an appraisal..
(None)	Simple acquisition where total just compensation is $10,000 or less.	Value finding evidence contained in the Project Funding Estimate or other explanation needed..
Abbreviated Appraisal Report	Simple acquisition where damages are measured by cost to cure.	See Tab E (below) for requirements.
Short Form Appraisal	Whole or partial acquisitions where the property's present use is its highest and best use and where said use is the same before and after acquisition. Only one value approach, the market data approach, is usually applicable here.	See Tab D (below) for requirements.
Standard Form Narrative Appraisal	When none of the above apply	See Tab C (below) for requirements.

D. Report Preparation

The format, rules, and procedures for the various types of reports are given in the following tabs:

A. Specialist's Report

B. Surplus Property Form

C. Standard Narrative Form

D. Short Form, Narrative-Type

E. Abbreviated Appraisal Report

F. Strip Appraisal Procedures

Tab A Specialist's Report

i. Rules

A. A specialist's report evaluates a special and/or cost-to-cure item; e.g., a timber cruise, well drilling, facade rehabilitation, specialty real estate equipment, etc.

B. The specialist's report is a written document which contains the following (where applicable):

1. A Certificate of Specialist.
2. Statement of the purpose of the report and definition of the value(s) or cost(s) reported, i.e., reproduction cost less depreciation, salvage value, cost to cure, etc.
3. Identification of the property, its ownership, and location (i.e., a complete listing of all items, each described to the extent that it may be valued and located and identified in the field).
4. Statement of appropriate contingent and limiting conditions, if any.
5. Statement of the problem to be solved by the specialist.
6. The estimate of value(s) or cost(s) as of a specific date.
7. The specialist's report provides a breakdown of the total estimate showing individual amounts for each item, such as: material, labor, profit, and sales tax.
8. The data and analysis to explain, substantiate, and thereby document the estimate of value(s) or cost(s).
9. Descriptive material, i.e., special instructions, maps, charts, plans, photographs, etc.

C. Upon review and approval by the Region Appraisal Supervisor, the specialist's report is submitted to the Appraiser for consideration within the appraisal and for inclusion in the Addenda of the appraisal report.

ii. Procedures

A. The specialist completes the report as follows:

1. PAGE 1 — CERTIFICATE OF SPECIALIST

Page 1 of the specialist's report and includes the following:

a. Right of Way Plan Identification—The purpose of the block in the upper right-hand corner is to identify the specialist's report with the particular highway plan upon which the parcel is shown as of the date of the evaluation. A subsequent revision of the right of way plan (shown by the "Last Revision" date) could nullify the validity of an earlier evaluation. The specialist's report is, therefore, identified with the plan currently furnished by the department.

The specialist refers to the Agreement for Services for the parcel numbers, Federal aid number (if any), and correct project number and title. The project title is the same as the plan title found in the lower right-hand comer of the Department's approved right of way and/or <u>sundry</u> site plan sheet.

In the case of a common borrow site, the project title also includes the name of the highway project for which the common borrow site is intended to be used. The pertinent — "for use on" — information is shown on the <u>sundry</u> site plan within the block which shows the particular site involved.

A specialist's report may NOT include any conclusion based upon an expectation of a future plan revision without written instructions. A copy of any such instructions is included in the Addenda of the specialist's report. If the current right of way plan does not reflect current conditions, such fact is made known to the Region Appraisal Supervisor who will seek correction of the plan prior to permitting the evaluation to be continued. Any necessary revision of the specialist's contracted due date is executed by a new Personal Services Contract. Special authorization is secured by the Region Appraisal Supervisor if the best interest of the state will be achieved by continuing the evaluation in spite of plan inaccuracies or omissions. If the plan is in error on the location of improvements, staking on the ground is considered to override and supersede plan information.

Include in the statement contingent and limiting conditions, reference to any special instructions received from the Region Appraisal Supervisor, and the specialist's specific findings in any case of plan error.

b. *Certificate of Specialist* — The wording of the certificate has been authored by the department to serve specific requirements. The specialist is expected to be fully aware of the language of this certificate. The specialist is to show all dates on which he/she inspected the property being evaluated, in the first paragraph.

c. The "date of evaluation" is the most recent date of property inspection by the specialist. It is inserted in the blank in the eighth paragraph.

d. The "Date of Contract" is the date on which the contract was approved by Director, Real Estate Services (DRES). Dates of approval of any and all contract revisions are listed in order by date under the original contract date.

e. The specialist completes the certificate by inserting the firm name, signing and dating the form with the date being that on which signed.

f. "DO NOT WRITE BELOW THIS LINE"—This space is for Region use only. The only marks in this space are the date of receipt of the report in Region, and the signature and date of approval of the report by the Region Appraisal Supervisor. Date stamping in this space is accomplished by WSDOT personnel to show the actual date of receipt by the WSDOT.

2. PAGE 2 et seq. — NARRATIVE SECTION OF THE SPECIALIST'S REPORT

In this section, the specialist presents a narrative report which covers (in the order listed) the items in Appendix 4-1, Page A-l, Parts iB2 through iB7.

3. ADDENDA

In this section, the specialist includes all pertinent supporting data as indicated in Appendix 4-1, Page A-l, Parts iB8 and iB9.

B. The Region Appraisal Supervisor:

1. Assures that the specialist's report has been date-stamped in the Region.

2. Reviews the report (for contract compliance) and:

a. Obtains any necessary corrective action; or approves the report by signing and dating a Certificate of Specialist, and submits the approved report to the Appraiser.

b. Assures that the Appraiser incorporates the specialist's report as provided in Appendix 4-1, Tab A.

Tab B Surplus Property Report

i. Rules

A. Simple disposals with values at less than $10,000 may be handled with a "value memorandum" citing the rationale and evidence obtained for the conclusion of value. This memorandum is generally prepared by the Property Management Agent rather than an appraiser. See Chapter 11 for the specifics required in the memorandum.

Complex surplus parcels are to be appraised using the short form (see Tab D) or the standard narrative form (see Tab C). Surplus property rights (e.g., access rights, easement or use rights, etc.) are valued on a “before” and “after” basis assuming the recipient parcel has the right in the “before” situation but does not have it in the ’”after” situation. The difference between the “before” and “after” situation is the Fair Market Value of the surplus property right.

Tab C Standard Narrative Form Appraisal Report

i. Format

The Standard Narrative Form Appraisal Report is organized according to the following format:

SECTION I — Identification and Summary

Page 1, *Certificate of Appraiser* (Form RES-205)

Page 2, *Summary of Conclusion* (Form RES-206)

Salient Information

Assumptions and Limiting Conditions

Subject Plot Plan and Photos (Form RES-207)

Narrative Report:

Item 1 — Owner

Item 2 — Address (or location) of subject property

Item 3 — Legal description

Item 4 — Delineation of title (5 years)

Item 5 — Purpose of appraisal

Item 6 — Summation of appraisal problems

SECTION II — Evaluation of Total Ownership

Item 1 — Assumptions and limiting conditions

Item 2 — Neighborhood location and description

Item 3 — Description of subject property

A. Present use

B. Accessibility and road frontages

C. Land contour and elevations

D. Land area

E. Land shape

F. Utilities

G. Present zoning

H. Highest and best use of land if vacant

I. Improvements

J. Specialty items

K. Real estate taxes

L. Assessments

M. Existing lease or rental data

N. Highest and best use of whole property as improved

Item 4 — Valuation of property

A. Site analysis and evaluation

1. Sales Comparison approach, site evaluation

a. General discussion

(1) Data search area, time frame, market units

(2) Sales that are comparable

b. Comparative analyses

c. Correlation and conclusion by comparative approach

2. Income approach, site evaluation

a. Data

b. Analysis

c. Correlation and conclusion by income approach

3. Correlation and final conclusion, land value

B. Approaches to value, whole property

1. Sales Comparison approach

a. General discussion

(1) Data search area, time frame, market units

(2) Sales that are comparable

b. Comparative analyses

(1) Whole property comparisons

(2) Comparative units

c. Correlation and conclusion, comparative approach

2. Income approach (when necessary or appropriate)

a. Data

b. Analysis

c. Correlation and conclusion, income approach

3. Cost approach (when necessary or appropriate)

a. Cost new

b. Accrued depreciation

c. Land value

d. Indicated value by cost approach

C. Correlation of value indications from all approaches

SECTION III — Remainder Evaluation

Item 1 — Assumptions and limiting conditions

Item 2 — Neighborhood factors

Item 3 — Description of subject remainder as an entity

A. Accessibility and road frontages

B. Land contour and elevation

C. Land area

D. Land shape

E. Utilities

1. Utilities actually remaining

2. Utilities lost and possible corrective potentials

F. Probable remainder zoning

G. Highest and best use of remainder land if vacant

H. Improvements

1. Improvements remaining in whole

2. Improvements remaining in part

a. Descriptions

b. Rehabilitation specifications, if rehabilitation feasible

I. Remainder specialty item considerations

J. Estimated real estate taxes

K. Possible remainder assessments

L. Lease or rental potential

M. Highest and best use of remainder as improved

Item 4 — Valuation of property remaining

A. Site analysis and evaluation

1. Sales Comparison approach, site evaluation

a. General discussion

(1) Data search area, time frame, market units

(2) Sales that are comparable

b. Comparative analyses

c. Correlation and conclusions by comparative approach

2. Income approach, site evaluation

a. Data

b. Analysis

c. Correlation and conclusion by income approach

3. Correlation and final conclusion, land value

B. Approaches to value, remainder whole property

1. Sales Comparison approach

a. General discussion

(1) Data search area, time frame, market units

(2) Sales that are comparable

b. Comparative analyses

(1) Whole property comparisons

(2) Comparative units

c. Correlation and conclusion, Sales Comparison approach

2. Income approach (when necessary or appropriate)

a Data

b. Analysis

c. Correlation and conclusion, income approach

3. Cost approach

a. Cost new

b. Accrued depreciation (including analysis and explanations)

c. Land value

d. Indicated value by cost approach

C. Correlation of remainder value indications from all approaches

SECTION IV — Acquisition Analysis

Item 1 — Recapitulation

A. Value of property before acquisition

B. Value of property after acquisition

C. Difference between "before" and "after" values

Item 2 — Explanation of damages

Item 3 — Explanation of special benefits

SECTION V — Addenda

A. *Market Data* (Forms RES-210 and RES-210B)

B. Market data map

C. Special instructions; charts and illustrations

D. *Report of Contact with Owner* (Form RES-204)

E. Title report — The title report is attached to the Review Appraiser's copy only. A copy of the legal description from the title report may be attached as an addenda item if necessary.

ii. Procedures

The following paragraphs present detailed instructions for the completion of the *Standard Narrative Form Appraisal Report*. These instructions are in accordance with the Format (see Appendix 4-1, Tab C, Part i).

SECTION I — Identification and Summary

PAGE 1 — *CERTIFICATE OF APPRAISER*

This printed form is page 1 of the appraisal report and includes the following:

A. Right of way plan identification — The purpose of the block in the upper right-hand corner is to identify the appraisal report with the particular highway plan upon which the parcel is shown as of the date of the appraisal. A subsequent revision of the right of way plan (shown by "Last Revision" date) could nullify the validity of an earlier evaluation. The appraisal report is, therefore, identified with the map currently furnished by WSDOT.

The Appraiser refers to the *Personal Services Contract* or Staff Assignment form for the parcel numbers, federal-aid numbers (if any), and correct project number and title. The project title is the same as the plan title found in the lower right-hand corner of WDOT's approved right of way and/or pit site plan sheet.

In case of a common borrow site, the project title also includes the name of the highway project for which the common borrow site is intended to be used. The pertinent ("for use on") information is shown on the pit site plan within the block which shows the particular site involved.

An appraisal report may NOT include any conclusion based upon an expectation of a future plan revision without written instructions. A copy of any such instructions is included in the Addenda of the appraisal report. If the current right of way plan does not reflect current conditions, the Region Appraisal Supervisor seeks correction of the plan prior to permitting the appraisal to be continued. Any necessary revision of the Appraiser's contracted due date is executed by a new *Personal Services Contract or Staff Assignment form*. Special authorization is secured by the Region Appraisal Supervisor if the best interest of the state will be achieved by continuing the appraisal in spite of plan inaccuracies or omissions. If the plan is in error on location of improvements, staking on the ground is considered to override and supersede plan information.

Include in ITEM I of SECTION II (Assumptions and Limiting Conditions) reference to any special instructions received from the Region Appraisal Supervisor, and the Appraiser's specific findings in any case of plan error.

B. *Certificate of Appraiser* — The wording of the certificate has been authored by the WSDOT to serve specific requirements. The Appraiser is expected to be fully aware of the language of this certificate.

C. Encumbrances

1. The paragraph on page 1 beginning, "This property has been appraised for its fair market value ....," is designed to provide ready identification of a parcel which cannot be marketed in fee simple due to the existence of outstanding dominant interests. Basic ground rules of appraising property for WSDOT require the evaluation of all rights of fee ownership because WSDOT assumes the responsibility of clearing all interests presuming the market value or the fee to be equal to the sum of all partial interests. The appraiser inserts the date of the title report here.

2. WSDOT recognizes easements of material duration, perpetual easements, (including electrical transmission power lines), deed or title restrictions (including access limitations and use restrictions imposed on the title) as having possible adverse effects on market value. In the event of the existence of such an encumbrance in a particular case, the Appraiser discusses their effect in the narrative report. In these cases, the evaluation reflects the value of the property as encumbered.

D. The paragraph on page 1 beginning, "The opinion of value expressed below ....," requires that the Appraiser show the total number of pages in his report in order to avoid inadvertent loss of pages or the possibility of any fractional use of the report. The number of pages shown here is the total page count of he appraisal report, including the Addenda.

E. The paragraph on page 1 beginning, "I made a personal inspection…"requires the appraiser to list all dates on which the subject property was inspected.

F. The paragraph on Page 1 beginning, "The Date of Value for this property…" requires the appraiser to insert the Date of Value. The Date of Value is the most recent date of property inspection by the appraiser.

G. The paragraph on page 1 beginning, "Per the Fair Market Value definition…" is designed to display the final conclusion of the Appraiser. In the case of a total acquisition, the words "total acquisition" are inserted in lieu of a remainder value, and the third blank line is ignored. If a two premise appraisal is required, insert the conclusions for "Premise 2" immediately to the right of those for "Premise 1," and label both appropriately; or include two Page 1's, one labeled Premise 1 and the other labeled Premise 2.

H. The "Date of Contract" is the date on which the contract was approved by the DRES, <u>or designee</u>. Dates of approval of any and all contract revisions are listed in order by date under the original contract date. Staff Appraisers use the date of assignment.

I. Appraisers complete the certificate by inserting their name, signing and dating the form (in the number Washington State appraisal certification number.

J. "DO NOT WRITE BELOW THIS LINE." This space is for Region and Headquarters use only. The only marks in this space are the date of receipt of the appraisal in Region and in headquarters. Date stamping in this space is accomplished by department personnel to show the actual dates of receipt by WSDOT.

PAGE 2 — *SUMMARY OF CONCLUSIONS* (Form RES-206)

This printed form is page 2 of the appraisal report and includes the following:

A. A breakdown is required of each of the following: the value before acquisition, the value of the remainder and a breakdown of the difference between the "before" and "after" values. On total acquisitions, a breakdown of "before" value only is required. (This page is for a tabulation of certain specific data for WSDOT use and does not necessarily represent the methods of appraisal or the techniques employed.)

B. If more than one value premise is necessary, a separate *Summary of Conclusions* is inserted for each premise. They are respectively labeled "Premise 1," "Premise 2," etc., in the lower right-hand corner above the parcel number.

SALIENT INFORMATION

This information is generally standard, but may be revised to fit the particular appraisal problem.

ASSUMPTIONS AND LIMITING CONDITIONS

This information is generally standard, but should be revised to fit the particular appraisal problem.

SUBJECT PLOT PLAN AND PHOTOS (Form RES-207)

This printed form includes the following:

A. Photographs — Each appraisal report includes a sufficient number of photographs, properly identified and taken at various angles to show significant features of the property, especially the improvements, and the take.

B. Sketch — A plot plan sketch of the subject property is required. The sketch should assist the reader to visualize the parcel and the scope of the related appraisal considerations. The minimum pictorial requirements itemized on the form require showing the entire subject, including perimeter dimensions and parcel area. All street frontages are identified. All pertinent improvements and other significant features of the property are shown in their approximate locations, including alleys, roadways, and easements. The dimensions of the improvements are shown. The geographic orientation of the property is identified by means of a north directional arrow. A copy of a "reduced print" size of the right of way map depicting the subject and surrounding properties may not be used.

   The location from which each subject photograph was taken is identified by drawing a circle around the place from which each was taken. The photo serial number is printed inside each circle and the direction the camera lens was pointing is indicated by a short arrow. In the case of a partial acquisition, the limits of the proposed right of way are shown. The remainder dimensions and area are shown. Any restriction of access is shown by pictures. If road approaches are to be permitted, they are shown in their approximate locations. More than one sketch may be required for clarity in some situations. Where this is necessary, the second sketch is confined to showing either the remainder details only, or an enlargement of a portion of the total parcel. Both sketches shall carry sufficient identification to pictorially indicate the relationship of the sketches to each other. When an alternate remainder evaluation is required, a sketch of the remainder is included in the Addenda of the report.

NARRATIVE REPORT

ITEM 1 — OWNER

The names (and addresses, if available) of all current owners are shown. Where certain parties are contract purchasers, life estate owners, tenants, etc., so indicate.

ITEM 2 — ADDRESS (OR LOCATION) of SUBJECT PROPERTY

The address of the property is shown, or if an address is nonexistent or does not readily reveal a specific geographical location (as in the case of a rural postal route and box number), the location of the property is described by reference to names of streets, roads, highways, and distances from describable landmarks.

ITEM 3 — LEGAL DESCRIPTION

Inserts legal description provided in the title report. If the legal description is lengthy, the appraiser indicates so here and includes the entire legal description in the Addenda of the report.

ITEM 4 — DELINEATION OF TITLE

Here show all transfers of the property occurring within the previous five years. Each transfer is tabulated in order of occurrence showing the grantor, grantee, date of sale, Auditor's volume and page, confirmee, and the sale price as follows:

FROM TO DATE BOOK/PAGE CONFIRMEE CONSIDERATION

Following each sale, state an opinion on whether the sale can be considered as evidence of value. If it can, the sale information and the Appraiser's analysis thereof are reopened on the *Market Data* form (Forms RES-210 and RES-210B) and included in the report. If the sale cannot be considered, the Appraiser states why.

ITEM 5 — PURPOSE OF THE APPRAISAL

The purpose of all appraisals is to estimate the "fair market value" which is defined below. In the case of a "total acquisition," the purpose of the appraisal is to estimate the market value of the entire ownership. In the case of a "partial acquisition," the purpose of the appraisal is to first estimate the market value of the entire ownership and second to estimate the market value of the remainder. The difference between the two values is then to be analyzed (by the Appraiser) as to the allocation of the value differential to real property acquired and damages or special benefits to the remaining real property and property rights.

"Fair market value" is the amount in cash which a well-informed buyer willing, but not obliged to buy the property, would pay, and which a well-informed seller willing but not obligated to sell it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

ITEM 6 — SUMMATION OF APPRAISAL PROBLEMS

The purpose of this item is to explain the principal problems presented by the particular parcel in estimating market value; and, in the case of a parcel acquisition, also to explain (in general) the principal differences in character and amenity between the parcel before the acquisition and the portion remaining after the acquisition.

The Appraiser begins by explaining what property and rights are to be acquired. This is done in very general terms because the description of the before situation in Section II, the description of the remainder in Section III and the itemization of rights being acquired on Page 2 of the report are to be very comprehensive on this point. By the Appraiser's first explaining the significance of the differences between the before and the remainder circumstances, he can more effectively focus the reader's mind on the more important value considerations. The areas in acres or square feet of both the before and remainder are noted. If the acquisition will include the acquisition by the state of easement rights, the area, type, and effect of such easement are stated and are taken into consideration in the evaluation of the remainder (Section III). If more than one value premise is necessary, an explanation of each premise is given here. If it is determined that items such as trade fixtures, machines, equipment, or other items of a more or less personal nature are to be included in the evaluation of a property, those items so included should be listed within the Addenda of the appraisal and reference thereto included here. If said items are tenant owned, they are evaluated separately as to both the Fair Market Value which said item(s) contribute to the Fair Market Value of the whole property and the value of the item(s) for removal (orderly liquidation value).

SECTION II — Evaluation of Total Ownership

ITEM 1 — ASSUMPTIONS AND LIMITING CONDITIONS

The Appraiser states any extraordinary assumptions and limiting conditions which are necessary to the background of the evaluation of the whole ownership before acquisition. Special legal opinions are secured from WSDOT or instructions furnished by WSDOT are mentioned here.

Encumbrances shown on the title report which have an effect on market value are listed by encumbrance number as shown on the title report.

ITEM 2 — NEIGHBORHOOD LOCATION AND DESCRIPTION

Under this heading, a brief description of the neighborhood and economic influences in force are given. The economic position of the appraised property relative to the neighborhood is explained.

ITEM 3 — DESCRIPTION OF SUBJECT PROPERTY

A. Present Use — The use or uses the property is presently serving are stated.

B. Accessibility and Road Frontage — Existing road or street patterns serving the property, existing property frontages, road approaches, grade differentials between the property and road frontages, existing access restrictions imposed by deed, title, police power or nature are described.

C. Land Contour and Elevations — A word picture of the "lay-of-the-land" is given here.

D. Land Area — Total ownership area in acres or square feet given here.

E. Land Shape — The general shape and dimensions of the ownership are included.

F. Utilities — Public and/or private utilities (sewer, water, gas, electric power, etc.) available to the property, their locations and quantities are included.

G. Present Zoning — The zoning and jurisdiction as of the date of appraisal is stated in words, not codes, for example: "Multi-residential, minimum area 7,200 square feet, Pierce County." Also, any restrictions on the use of the property are explained; e.g., set-back requirements, minimum on-site parking requirements, etc.

H. Highest and Best Use of Land if Vacant — In determining highest and the best use of the land, the Appraiser assumes the land to be vacant and available for its highest and best use even though it may not be actually vacant. He tells what use is the best for the land, ignoring any improvements, and why that use is the highest and best for this particular tract. Some parcels require value studies under more than one use assumption in order to support the decision. Any such study is explained in this paragraph. When the most logical use is not allowed under existing zoning, the Appraiser determines the reasonable probability of securing a zoning change.

I. Improvements — If the subject is improved, each of the improvements is named and identified on the sketch of the report. Each improvement is described, including age, construction, and general condition.

J. Specialty Items — These are items identified prior to appraisal as real estate equipment, real estate trade fixtures, crops, etc., and are to be identified in this section. The owner(s) of the item(s) must be identified here also. In most cases, a specialist's report evaluating the items is provided to the Appraiser at the time

of assignment. The value of a specialty item is not arbitrarily added to the valuation of the other realty, but is considered as any other basic data by the Appraiser in estimating the Fair Market Value of the whole property.

K. Real Estate Tax — The dollar amount of the real estate tax is shown as well as the assessed value and current tax rate.

L. Assessments — The dollar amount of any assessments against the property at time of appraisal is indicated.

M. Existing Lease or Rental Data — If the property is under a lease or rental agreement, the Appraiser investigates and reports the details of the encumbrance. Whenever possible, the Appraiser also obtains owner-tenant agreement copies and includes them in the Addenda. In the case of residential property where improvements are acquired or damaged, the Appraiser estimates economic rent for the property and what the rent includes.

N. Highest and Best Use of the Whole Property as Improved —

1. If the property is improved, the current highest and best use of the parcel is stated and explained. If it appears that the land is not developed to its highest and best use because of the improvements thereon, the Appraiser bases his decision on highest and best use for the total property on whether the value of the property as improved is greater than the value of the land if vacant. It may, therefore, be necessary to prove highest and best use through appraisal techniques which reflect comparisons of values from alternate use premises.

2. If the property is vacant (unimproved), “Vacant” is stated under this heading. (See paragraph H, above.)

3. Evaluation of private property does not include value derived from the illegal use of state highway right of way for the conduct of adjacent businesses, or any other illegal use.

ITEM 4 — VALUATION OF PROPERTY

A. Site Analysis and Evaluation

Rules:

The most reliable evidence of the value of the site is recent sales of similar sites. Since no two tracts are identical, adjustments to the sale price of comparable tracts may be required to develop an indication of value for the appraised site. The evidence of the necessity to adjust, if at all, is present in the market and is illustrated in the appraisal report.

The employment of the hypothetical subdivision to develop raw land value may be introduced to support the market data and to illustrate the amount of money a prudent purchaser would likely pay for raw subdivision land. However, due to the many variables and speculative elements, the estimate of value is never based solely upon such a hypothesis.

The comparative approach is based on the principle of substitution; therefore, each comparable sale used in this approach must be sufficiently similar to the property to be considered by the investor as a substitute property.

The validity of the value conclusion drawn from this approach is in direct relation to the sufficiency and comparability of the data. Sales data must be of sufficient quantity and quality to give the value conclusion a solid base. To the extent that adjustments are needed in the sales analysis, the validity of the entire approach is brought into question.

Procedures:

1. Sales Comparison Approach, Site Evaluation

   a. General Discussion

      (1) Here the Appraiser lays the groundwork for the comparative analysis by a statement of the extent of his search, the sufficiency and comparability of existing data and the general value bracket within which subject will fall.

      (2) Sales that are comparable are listed, identifying each by the sale number of the pertinent *Market Data* (Forms RES-210 and RES-210B) in the Addenda. A format similar to the following is used at this point in the report:

SALES NUMBER	GRANTOR/ GRANTEE	LAND AREA	SALE DATE	SALE PRICE

   b. Comparative Analysis

      Ideally, sales used are so closely comparable as to make adjustments unnecessary when equating them to the property being appraised. However, because such close compatibility rarely exists, a narrative comparative analysis of each comparable sale is made explaining how the sale relates to the subject with regard to those features which tend to influence market value. It is recognized that within comparable properties there may exist many items of dissimilarity to which the market does not react and for which adjustments are not attempted. If market investigation shows adjustment to be necessary, then each significant element of difference between the comparable and the subject is explained separately on its own particular merits, with an indication as to its value differential made either on a dollar or percentage basis. When there is a lack of market support for adjustments, sound and consistent reasoning in the comparison of each item of difference may be acceptable. In this latter instance, a greater number of sales should be used in order to broaden the scope of value evidence. When adjustments are made:

      (1) As the number of adjustments or size of any single adjustment increases, the validity of the sale as a “comparable” is reduced.

      (2) A comparative analysis chart or “grid” may be an aid to the Appraiser and a help to the reader.

   c. Correlation and Conclusion by Sales Comparison Approach

      The several comparisons should result in close indications of the value of the property being appraised. In this section these indications are correlated into a single indication of value of the site by the comparative approach.

2. Income Approach, Site Evaluation

   Certain types of land do not lend themselves to the use of the income approach because such land is not typically leased or rented.

   When sufficient rental and/or leasing data are available with which to establish a sound basis for the income approach, the Appraiser analyzes and processes such data here.

3. Correlation and Final Conclusion, Land Value

   The appraisal report now explains how the Appraiser has weighed the indications of value, what specific value the total of the market data tends to indicate to the subject and why the market data indicates said specific value.

B. Approaches to Value, Whole Property

Rules:

If the site is improved, the value of the improvement is based upon its contribution to the value of the whole property (except for tenant-owned realty items; see II.B.a(2)). All three commonly accepted approaches to the estimate of value, including supporting units of comparison, are employed as applicable. If one or more approaches to the estimate of value are omitted, the Appraiser states the reason for each omission.

The Sales Comparison method of presenting market value evidence is the method most acceptable to WSDOT and to the courts and juries; consequently, the greatest reliance is usually placed upon market comparison. Sufficient highly comparable data is analyzed to provide a sound basis for the conclusion drawn from this approach. The authenticity of the entire approach is directly proportional to the sufficiency and comparability of the data obtained and the accuracy with which it is analyzed.

Procedures:

1. Sales Comparison Approach

   a. General Discussion

   (1) Here the Appraiser lays the groundwork for the comparative analysis by a statement of the extent of his search, the sufficiency and comparability of existing data and the general value bracket within which subject will fall.

   (2) Sales and offerings that are comparable are listed identifying each by the sale number on the pertinent *Market Data* (Forms RES-210 and RES-210B) in the Addenda. A format similar to the following is used at this point in the report:

SALES NUMBER	GRANTOR/ GRANTEE	LAND AREA	SALE DATE	SALE PRICE

   b. Comparative Analysis

   Ideally, sales used are so closely comparable as to make adjustments unnecessary when equating them to the property being appraised. However, because such close comparability rarely exists, a narrative comparative analysis of each comparable sale is made explaining

how the sale relates to the subject with regard to those features which tend to influence market value. It is recognized that within comparable properties there may exist many items of dissimilarity to which the market does not react and for which adjustments are not attempted. If market investigation shows adjustment to be necessary, then each significant element of difference between the comparable and the subject is explained separately on its own particular merits, with an indication as to its value differential made either on a dollar or percentage basis. When there is a lack of market support for adjustments, sound and consistent reasoning in the comparison of each item of difference may be acceptable. In this latter instance, a greater number of sales should be used in order to broaden the scope of value evidence. When adjustments are made:

(1) As the number of adjustments or size of any single adjustment increases, the validity of the sale as a "comparable" is reduced.

(2) A comparative analysis chart or "grid" may be an aid to the Appraiser and a help to the reader.

c. Correlation and Conclusion by Sales Comparison Approach

Here the Appraiser explains how he has weighed the various indications of value, what conclusion of value has been reached, and why the evidence supports such conclusion.

2. Income Approach

Value conclusions reached through the income approach are valid only in direct relationship to the sufficiency and comparability of the data available and the accuracy and care with which such data are analyzed and processed. The Appraiser properly analyzes sufficient comparable data to provide a sound basis for the conclusion drawn.

Economic rent and expenses, as well as interest and capitalization rates, are supported by market evidence adequately portrayed in the report.

3. Cost Approach

The cost approach reflects either the depreciated replacement cost new or the depreciated reproduction cost new of the subject structure. The Appraiser gives the reason for his particular selection.

a. Cost New — In condemnation appraisals in Washington State, cost new is generally expected to be reproduction cost rather than replacement cost. While cost service manuals, cost estimators, or contractors may serve in support of an Appraiser's estimate of costs, most valid evidence lies in the market facts of known costs of construction of like or similar structures within the subject or competing areas.

b. Accrued Depreciation — The department will accept either of two methods of measuring accrued depreciation (1) the breakdown method, and (2) the market method. Of the two, the market method is preferred whenever its use is possible.

The Appraiser includes his analysis and explanation of accrued depreciation.

C. Correlation of Value Indications From All Approaches

The three approaches should produce indications of value within a reasonably narrow range.

In the correlation, the Appraiser explains why and how he arrived at the final estimate of value. The values that have been indicated by each approach and the reliability and relative merits of each are explained.

SECTION III — Remainder Evaluation

ITEM 1 — ASSUMPTIONS AND LIMITING CONDITIONS

The Appraiser assumes that the highway facility will be constructed in accordance with the present highway plan within the reasonable future.

Any assumptions applicable to the remainder are stated.

Legal opinions and special instructions that are applicable are stated, including a statement explaining the basic premise being employed.

All title encumbrances that will pertain to the remainder are stated and whether or not and why each such encumbrance has an influence on the market value of that remainder. Any access restrictions to be imposed by the state are explained. Note whether and where road approaches are to be constructed by WSDOT. Highway Engineer's Station numbers are used on the right of way plan to locate permitted road approaches.

ITEM 2 — NEIGHBORHOOD FACTORS

State the environmental conditions which will be significant to the remaining property. Describe and explain what trends will probably influence the future of the property being appraised. Describe the new highway facility in relation to the property.

ITEM 3 — DESCRIPTION OF SUBJECT REMAINDER AS AN ENTITY

The remainder (that portion of the property remaining after acquisition of the right of way or materials site) is viewed as an entirely new property to be appraised. The types of data required to describe the remainder property are similar to that outlined in Section 11 for the "before" appraisal. Of particular importance to the department is (1) the presence and/or availability to the property of the customary and any special utilities, and (2) the highest and best use of the remainder.

Improvements remaining in whole or in part on the remainder are noted. Improvements remaining in part are assumed to be either rehabilitated in place or removed, whichever is feasible.

NOTE: An exception to requirements stated herein may be made when any item of the remainder is identical to that already described in the before situation. In such event, the Appraiser states: "as previously reported and described on page . . ."

ITEM 4 — VALUATION OF PROPERTY REMAINING

As stated in Item 3, the valuation of the remainder is a new appraisal. In those cases where the portion acquired was of little significance to the total property, the remainder may be so nearly like the "before" situation that the same basic sales, income, and cost data are referenced and employed in new comparative, income and cost approaches.

On the other hand, if there is a change in the basic physical and economic nature of the remainder, including a change of highest and best use, or any variety of circumstances creating damages or benefits to such remainder, new supporting data and explanations of evaluations are introduced.

WSDOT normally acquires improvements which straddle the right of way line and may sell the salvage rights thereto or may remove the improvements leaving the remainder in a neat and orderly condition.

To support a rehabilitation hypothesis, in the case of an alternate remainder evaluation, the Appraiser will include in the Addenda a plot plan of the remainder, showing the rehabilitated improvements in sufficient detail to enable the reader to visualize the Appraiser's specifications. The specifications must reflect those of a prudent person and need not include total replacement of all the features present in the "before" instance. In evaluating a remainder under this premise, the highest and best use of the land will have a significant bearing on the feasibility of assuming a rehabilitation.

If a permanent easement or temporary easement is imposed on the remainder by WSDOT, its terms are supplied to the Appraiser by the Region's Appraisal Supervisor. This information will consist of the area involved, the duration of the encumbrance, and the type of encumbrance. The value of the remainder is then estimated and reported, as encumbered, by the Appraiser. Market data is not always available with which to evaluate property subject to a particular type of encumbrance; however, this fact does not relieve the Appraiser from the obligation of making a search for supporting data. All available data is analyzed and reported together with the reasoning which led to the conclusions reached.

Again, the three approaches to value support the final conclusion of value. If an approach is not applicable, the narrative explains why it is not applicable. The valuation follows the same format as required in the "before" situation. If the same market data used for the "after" valuation were used for the "before" valuation, the appraiser explains and supports any different adjustments.

NOTE: A breakdown of the indicated value of the remainder is required on Page 2, *Summary of Conclusions* (Form RES-206) regardless of the appraisal methods employed. If an easement is being acquired, the area and resultant unit, and total value is set out on this form.

SECTION IV — Acquisition Analysis

ITEM 1 — RECAPITULATION

The following statements are completed as worded:

A. Value of property "before" acquisition $_____

B. Value of property "after" acquisition $_____

C. Difference between "before" and "after" values $_____ (Subtract B. from A.)

NOTE: The difference between the "before" and "after" values is set forth on Page 2, *Summary of Conclusions* (Form RES-206) and broken down into the types of information required by the form.

ITEM 2 — EXPLANATION OF DAMAGES

Damages as such are not appraised. The Appraiser appraises the property before acquisition and again as it will exist after acquisition. The conclusions reached are fully documented and supported. An explanation and comparative analysis is made of the difference between "before" and "after" values, isolating and properly allocating the dollar difference to the value of the part taken and the compensable damages and benefits, if any.

When it is found that damages may be mitigated in whole or in part by a cost-to-cure item, it must be demonstrated that the cost-to-cure item is economically justified. The cost-to-cure cannot exceed the amount of damage which would accrue without such cure. In the event that firm bids for cost-to-cure items are needed, the Region's Appraisal Supervisor secures such bids and furnishes them to the Appraiser for his analysis and inclusion within the appraisal report.

ITEM 3 — EXPLANATION OF SPECIAL BENEFITS

Under this heading a narrative explanation brings out why and how the property enjoys special benefits. The amount of benefits are to be shown in terms of dollars, or the narrative explains that there is no special benefit. In this state, any special benefit that accrues to the remaining property by virtue of the state's highway improvements is set off against both damages and the value of the property acquired.

SECTION V — ADDENDA

Rules:

MARKET DATA (Forms RES-210 and RES-210B). All recent sales and offerings of nearby properties are studied and considered. Sufficient sales evidence (market data) is included in the report to provide a sound basis for evaluation of both the "before" and "after" situations of the property. WSDOT considers three sales as the minimum market evidence to support the least complicated bare land evaluation. The amount of data needed is in direct proportion to the number of property elements for which market analysis is required.

Market data may be offered to the Appraiser by the department in connection with an appraisal assignment without obligation on the part of WSDOT and without absolving the Appraiser from the professional responsibility for verification and further independent analysis of any and all pertinent data. WSDOT data is furnished without an analysis in order to avoid any action that might reduce the independence of an appraisal estimate.

The proper reporting and analysis of sales data is the foundation of a properly documented appraisal report. Appraisals made for WSDOT must contain sales data of adequate quality and quantity to demonstrate that the Appraiser has arrived at the conclusion of value as the direct result of a careful analysis of the current market. WSDOT holds that where market data is weak in comparability a greater than usual volume of data must be analyzed.

Procedures:

A. Complete the *Market Data* (Forms RES-210 and RES-210B) as follows:

ITEM (1) — ADDRESS OR LOCATION

The house number, street, and city are shown; or if none, the county is named with an explanation of how to locate the property by road names, directions, and distances from cities and crossroads or other conventional landmark references.

ITEM (2) — PHOTOGRAPH AND SKETCH

Photographs of each sale property are attached to the second page of the market data form to provide the reader with a clear picture of the property. This requirement applies to both vacant and improved properties. Suitable print sizes should be obtained or prints should be trimmed to fit the space on the form.

Photographs are securely fastened to the page with plastic tape along the top edge only. The name of the photographer and the date taken are filled in on the form in the spaces provided.

A small scale plot-plan sketch of the property should be shown in the space under the photograph. Dimensions of the site, road, or street frontages, improvement location, alleys, easements, north arrow, photo directional arrow, and any other relevant information are included on the sketch. If insufficient space is provided on the form for an understandable sketch, the Appraiser places the sketch on an additional page with consecutive numbering, and inserts "see next page" on the *Market Data* form. The additional sketch page is also identified by the number of the comparable sale, parcel number, and the Appraiser's name.

ITEM (3)

All data is reported as it pertains to the property at the time of the sale. Changes that have occurred since the sale are described under ITEM (5).

ITEM (3)a — ACCESS

Examples: "Unrestricted," "Restricted direct to frontage road only," etc. This point may require clarification under ITEM (5).

ITEM (3)b — PRESENT USE Examples: "Vacant," "Industrial," "Commercial," "Business," etc., (at time of sale).

ITEM (3)c — HIGHEST AND BEST USE

Examples: "Residential," "Multi-family," "Commercial," "Industry," etc.

ITEM (3)d — ZONING

Zoning on the date of sale is stated in words, not codes, including jurisdiction. Example: "Multi-residential, Minimum 7,200 square feet, Pierce County" specifying special requirements such as setback, etc.

ITEM (3)e — DIMENSIONS

Dimensions of the land sold are shown. Example: "Irregular, 1,320 feet frontage x 1,900 feet average depth."

ITEM (3)f — AREA

Square footage or acres of the sale property are indicated.

ITEM (3)g — SALE DATE

The date of closure of a closed sale; the date of acceptance of an earnest money datum; the dates of exposure on the market for an offering.

ITEM (3)h — PRICE

This is the actual confirmed price at which the property sold. Non-realty included in the sale price is explained under ITEM (5) and the substantiated dollar amount broken down in ITEM (6) with explanation of the source and reliability of the value information on which the breakdown was made.

ITEM (3)i — INSTRUMENT

The type or kind of conveyance is identified (e.g., Warranty Deed, Real Estate Contract, etc.).

ITEM (3)j — TERMS

Any sale terms which were a matter of the seller's consideration and his acceptance are reported. If the transaction was for all cash (full selling price) to the seller, the word "Cash" is inserted. If the sale was not all cash to the seller, the details are explained. Where the market exhibits a cash equivalency adjustment, it is properly discussed in ITEMS (5) and (7).

If additional space is required to report and explain the terms of the sale, it is reported under ITEM (5) of the market data sheet or on a supplemental page following. Such a supplemental page is identified by the number of the comparable sale, parcel number, Appraiser's name, and consecutive page number.

ITEM (3)k — EXCISE TAX NUMBER

The serial number of the Excise Tax Affidavit is inserted here.

ITEM (3)1 and m — GRANTOR/GRANTEE

Names of buyer and seller are shown the same as they appear on the instrument which gives evidence of the transaction. If insufficient room exists on the form because of an extremely long name, it may be placed under ITEM (5).

ITEM (3)n — CONFIRMED WITH (NAMES/DATES)

Whenever possible, all information concerning a comparable sale is confirmed by personal interview with both the buyer and the seller. The first and last names of the confirmees, phone number of confirmee and the date of confirmation are shown. If the comparable sale is to be accepted as valid evidence of value, it is essential that it be confirmed by interview with either the grantee or grantor. If an unconfirmed sale is used there must be a full explanation of the attempts to confirm. In this case the Appraiser should at least talk to the broker. In all contacts face-to-face conferences should hold precedence over telephone confirmation.

ITEM (3)o — CONFIRMED BY

The name of the individual who confirmed the sale is inserted.

ITEM (3)p—DATE INSPECTED

The date the sale was inspected is inserted.

ITEM (4) — LEGAL DESCRIPTION

In cases of very lengthy legal descriptions, the legal description used in the county tax rolls may be shown. Tax lot numbers are acceptable.

ITEM (5) — PROPERTY DESCRIPTION

The property is described as it was at the time of the sale, with notations of changes that have taken place since the sale.

ITEM (6) — ANALYSIS

The sale property is analyzed and the sale price of the real property is broken down into all of the elements.

The purpose of extraction is to inventory the physical items included in the sale and allocate to them the portion of the sale price attributable to each item.

B. MARKET DATA MAP

Each appraisal report contains a map of suitable scale on which is shown (by sale number) the location of each "Market Data" cited in the report. The location of the property and north arrow are also shown.

C. SPECIAL INSTRUCTIONS, CHARTS, AND ILLUSTRATIONS

1. When the Appraiser has received special instructions from the Senior Appraiser, a copy of such instructions is inserted.
2. A copy of any specialist's report, legal opinion, etc., is inserted.
3. At the Appraiser's option, or as required by WSDOT, other maps, charts, or illustrations relevant to an understanding of the appraised property and the evaluation are inserted.
4. The Appraiser lists the names of all supporting Appraisers and makes a statement of the extent of their assistance in the appraisal and report.

D. *REPORT OF CONTACT WITH OWNER* (Form RES-204)

Every property owner must be given the opportunity to inspect the subject property with the appraiser. Every effort must be made to assure that the property owner has this opportunity. A joint inspection may answer many questions for the appraiser such as the location of utilities, the owner's concerns about the project, etc. The appraiser should be flexible in his or her schedule in order to accommodate the property owner. If contact cannot be made by telephone, the appraiser may send a letter explaining the need for the inspection and inviting the owner to join in the inspection. It is strongly suggested that the letter be sent "Return Receipt" in order to document the attempt for contact.

Where the acquisition affects major improvements or businesses, the appraiser is required to include the review appraiser and a relocation assistance agent in the joint inspection.

This form provides a record of contact and/or attempts to contact the owner(s) of the property. Under "comments" the Appraiser mentions any salient features of the property and any special concerns voiced by the owner at the time of joint inspection. Such factors may or may not influence property value; however, prior knowledge of the owner's concerns may be of aid to the Acquisition Agent.

Tab D Short Form Narrative-Type Appraisal Report

i. Rules

A. In instances where the income and cost approaches to value are not required, a *Short Form, Narrative-Type Appraisal Report* adequately related to comparable sales may fulfill the requirements of WSDOT. The *Short Form, Narrative-Type Appraisal Report* presents only the market data approach to value. Documentation and support is accomplished with a minimum of narrative. Note: The *Short Form, Narrative-Type Appraisal Report* is to be used only upon the written instruction of the Region Appraisal Supervisor.

B. In instances of total acquisition where the improvements make up a significant portion of the overall value, a total property to total property comparison is acceptable without the inclusion of comparable sales in support of the breakout of land value.
It is incumbent upon the Appraiser to be sufficiently familiar with land values in order to make a reasonable allocation of value between land and improvements on page 2 of the appraisal report.

C. With the exception of the Market Data map, each page required in the *Short Form*, *Narrative-Type Appraisal Report* is a printed form furnished by the WSDOT. The format should be used if the printed form itself does not provide adequate space, however. The printed forms are listed as follows:

Page 1, *Certificate of Appraiser* (Form RES-205).

Page 2, *Summary of Conclusions* (Form RES-206).

Salient Information

Assumptions & Limiting Conditions

Photographs of All Principal Improvements and/or Features Affecting Value (Form RES-207).

Short Form Appraisal Report (Form RES-208).

et. seq., Addenda (Items F through K below).

ii. Procedures

The Appraiser completes the report as follows:

A. Page 1, *Certificate of Appraiser* (Form RES-205) is completed as set forth in Appendix 4-1, Page C-5, *Certificate of Appraiser*.

B. Page 2, *Summary of Conclusions* (Form RES-206) is completed as set forth in Appendix 4-1, Page C-7, *Summary of Conclusions*.

C. *Salient Information*, is completed as set forth in Appendix 4-1, Tab C, *Salient Information.*

D. *Assumptions & Limiting Conditions* are completed as set forth in Appendix 4-1, Page C-, *Assumptions & Limiting Conditions*

E. *Photographs of All Principal Improvements and/or Features Affecting Value* (Form RES-207) is completed as set forth in Appendix 4-1, Tab C, *Photographs of all Principal Improvements and/or Features Affecting Value*.

F. *Short Form Appraisal Report* (Form RES-208). Insert the data for each ITEM in the spaces provided:

ITEM (1)

The name(s) of the owner(s) of the parcel being appraised are listed including those names in the title report. Where certain parties are contract purchasers, so indicate.

ITEM (2)

The address of the property being appraised is shown. If an address is nonexistent or does not readily reveal a specific geographical location (as in the case of a rural postal route or box number), the location of the property is described by reference to names of streets, roads, highways, and distances from describable landmarks.

ITEM (3)

The legal description of the subject property is included in this section. If the legal description is too lengthy a reference is made here and the entire legal description is included in the Addenda.

ITEM (4)

All transfers of the subject property having occurred in the previous five years are shown. If the sale is indicative of value, a Market Data Sheet (Forms RES-210 and RES-210B) is included as is any other comparable sale. Should the recorded sale not reflect market value, a brief explanation is given. For example: "Sale does not reflect market value. Purchaser was son-in-law of seller."

ITEM (5)

A brief description of the Neighborhood and any forces that affect values in the neighborhood is given. The property description given here is brief giving information not shown on the Sketch Form RES-207. If there is a Question of the larger parcel, a brief discussion should be made. Give the age, size, quality of construction and condition of the improvements, zoning, access, available public utilities/private utilities, topography, configuration, highest and best use of the land as vacant and ready for development, highest and best use of the property as improved, and any other feature of the property that would affect value.

ITEM (6)

The Appraiser describes the property rights to be acquired; e.g., the fee interest to a portion, or total of, the real estate; easement; restrictions of access; etc.

The effects of the proposed acquisition are briefly described: e.g., "The acquisition of 2,000 square feet from the street front portion of the site will leave a remainder site of 8,000 square feet, with the right of way line 30 feet from the nearest corner of the dwelling. No damage to the remainder."

ITEM (7) VALUATION - BEFORE

(A) Land as Though Vacant

(1) Describe the extent of the sales search here. Information should include areas searched, time period and sources of information.

(2) A comparative analysis is made of each sale to the subject. Those factors which influence value are discussed and adjusted for, if necessary. Each analysis of a sale concludes with an indicated value for the subject.

(3) The indications of value from the sales are correlated into a final indication of land value.

(B) Whole Property

(1) Describe the extent of the sales search here. Information should include areas searched, time period and sources of information.

(2) A comparative analysis is made of each whole property sale to the subject. Those factors which influence value are discussed and adjusted for, if necessary. Each analysis of a sale concludes with an indicated value for the subject.

The indications of value from the sales are correlated into a final indication of whole property value.

G. *Short Form Report-Remainder Valuation* is used in the appraisal when an additional set of comparable sales or a new correlation of sales is required to support the remainder value. (Note: If unit value of remainder is unchanged from the before valuation, a summary of the remainder value is made on page 2, only.) A brief description of the remainder may be appropriate to ensure that the appraiser has considered all of the elements that affect value.

ITEM (8)

Describe any factors that will affect the value of the remainder and which are not shown in the photographs or sketch on DOT Form 261-017; e.g., neighborhood changes, relation to the new facility, grade changes, access, probable zoning, highest and best use, and any other factor affecting the value.

ITEM (9) VALUATION - REMAINDER

Follow the same procedure as outlined in (7) above to arrive at a value of the land as though vacant and of the whole property.

ITEMS (10)

Damages and/or special benefits are explained, supported, and allocated.

H. Addenda (Items 1-6 below)

1. The *Market Data* (Forms RES-210 and RES-210B) is completed as required in Appendix 4-1, Tab C, Part ii, SECTION V, except that the comparison and adjustments as needed to produce an indication of value (in dollar amounts) are inserted in (7).

2. A *Market Data* map is included in each appraisal, following the last *Market Data* form. The map should be of a scale which clearly shows, by sale number, the location of each *Market Data* in the report, the location of the subject property, and a north arrow.

3. A copy of the contract or assignment form which authorizes use of the *Short Form, Narrative-Type Appraisal* is included in the Addenda.

4. If supporting appraisers or researchers were used, a statement is included in the Addenda which gives their names and the extent of their assistance; e.g., “John Smith acted as photographer and cartographer.”

5. A *Report of Contact with Owner* (Form RES-204) is completed as described above under "Tab C".

6. Acquisition Appraisal Salient Information and the Assumptions and Limiting Conditions are included in the Addenda.

Tab E Abbreviated Appraisal Report

i. Rules

The *Abbreviated Appraisal Report* (Form RES-213) is authorized for simple acquisition. This format will only be assigned for appraisals of a less complex and straightforward nature. Appraisals involving severance damages, special benefits, proximity damages, and other complex issues will not use this format. The brevity of this format does not relieve the Appraiser from the responsibility for researching the market and developing sound value conclusions; nor does it diminish the need for building an adequate file of information and market data which might become essential in a future action such as condemnation.

ii. Procedures

A. Page 1, *Certificate of Appraiser* (Form RES-205) is completed in accordance with Appendix 4-1, Page C-5 SECTION 1.**B.** Page 2 is completed as follows:

ITEM (1)

Owners name is inserted.

ITEM (2)

Location of the property is shown by street address or described by reference to streets, roads, highways, and/or distances to landmarks.

ITEM (3)

Before and after areas from the Right of Way plan are inserted.

ITEM (4)

Amount of acquisition area is inserted and if an easement is to be acquired the type of easement is inserted along with the area of the easement.

ITEM (5)

The current use, zoning and highest and best use are inserted.

ITEM (6)

A brief description of the appraisal problem along with the effects of the acquisition are entered.

ITEM (7)

Specific sales relied upon are listed here and the date of the Sales Data package is entered.

ITEM (8)

Indicate whether the subject has sold within the last 5 years and if it is included in the data package.

ITEM (9)

The various components of the acquisition are itemized under Acquisition Compensation along with the estimated value for each.

ITEM (10)

The parcel number is inserted in the space provided.

B. Page 3 is completed as follows:

ITEM (1)

A sketch of the entire property is placed here. The sketch is to show the dimensions of the property and the acquisition area, camera location for each picture, frontages, accesses, North arrow, and approximate location of any improvements.

ITEM (2)

A minimum of two photos are included showing the acquisition area and the whole property. The photos are numbered to correspond to the sketch's camera location.

ITEM (3)

The parcel number is inserted in the space provided.

C. Page 4 is completed as follows:

ITEM (1)

Briefly describe the property's physical features including all elements that might relate to marketability (e.g., access, size, utilities, location and economic factors), improvements, if any, and an explanation if highest and best use is different from the zoning or current use.

ITEM (2)

Briefly analyze the sales used as they relate to the subject comparing the factors that influence value. Correlate the sales into a final conclusion of value.

ITEM (3)

Include any cost to cure items in this space and indicate what the support was used for the cost. A short statement on the financial feasibility of the cost should also be included.

ITEM (4)

The owner contact section is filled out and any relevant comments made by the owner are included.

ITEM (5)

The parcel number is inserted in the space provided.

D. Page 5 is a copy of the contract or appraisal assignment form.

Tab F Project and Strip Appraisal Procedures

I. Project Appraisals

i. Rules

A Project Appraisal is a process which consolidates a related group of individual parcel appraisals in order to prevent duplicating Addenda items such as *Market Data* (Forms RES-210 and RES-210B), sales maps, neighborhood descriptions, general exhibits, assignments (Form RES-204) and/or contracts, trend studies, etc. Use of this method also promotes consistency and efficiency. The format used in project appraisals can be either the *Short Form Appraisal Report* (Form RES-208) or the *Abbreviated Appraisal Report* (Form RES-213) as long as each parcel is separately appraised and the procedures required for each form is followed. This procedure must be authorized on the assignment (Form RES-203) which will be included as a part of the Project Appraisal Addenda.

ii. Procedures

A. The Appraiser conducts a market investigation and prepares *Market Data* (Forms RES-210 and RES-210B) as described in Appendix 4-1, Page C-18, Section V. These data will be referred to by number, as applicable, in formulating the indications of value in each parcel's appraisal report.

B. The Appraiser prepares a vicinity map showing the locations of all the data as well as the project.

C. The Appraiser prepares a narrative neighborhood description discussing its uses and trends, economic factors, the proposed project, the general effects of the acquisitions, etc.

D. The Appraiser completes an appraisal of each parcel as required in either Tab D (*Short Form Appraisal Report*) or Tab E (*Minimal Value Appraisal Report*) or Appendix 4-1. For those parcels using the short form format, comparative analyses and correlation of the sales cited are included in the body of each report.

E. The Appraiser completes any trends, damage, or cost studies needed for use on any of the appraisals in the Project Appraisal.

F. The completed project appraisal report is assembled as follows:

1. Each parcel's individual appraisal report includes *Certificate of Appraiser* (Form RES-205) = page 1, etc., and those items required for each respective appraisal format.

2. The general addenda attached to the appraisal packet.

II. Strip Appraisals

i. Rules

Occasionally, strip acquisitions for road widenings will occur where no major improvements are affected and there are no complex severance damages nor any special benefits to the remainder parcels. In these cases the acquisitions may be appraised as a pro-rata portion of the "before" land value rather than complete "before" and "after" evaluations; these appraisals are termed "Strip Appraisals." The format used may be either the *Short Form Narrative* or the *Abbreviated Form*. The only instances of damage that allow use of the strip appraisal method are:

A. Simple cost to cure damages such as fence or driveway replacement, etc.

B. Simple damages due to loss of utility when the acquisition is a permanent easement.

C. Simple damages due to temporary loss of utility when the acquisition is a temporary construction permit or trespass.

Use of the Strip Appraisal does not relieve the Appraiser from the responsibility for thoroughly researching and analyzing the market in developing value conclusions. Neither does it diminish the need for building an adequate file of information and market data which might become essential in future actions such as condemnation. Nor does it allow the Appraiser to neglect data comparison of the subject to the "larger parcel."

ii. Procedures

A. Short Form Format:

1. Page 1, *Certificate of Appraiser* (Form RES-205) is completed per Appendix 4-1, Part 11C, Tab C, Part ii, Section I, Page l; except that the "before" and "after" values are left blank and "Strip Appraisal" is inserted after the "VALUE DIFFERENCE" amount.

2. Page 2, *Summary of Conclusions* (Form RES-206) need only be completed in the "acquisition section" and the "damages" section (when appropriate).

3. *Photographs of All Principal Improvements and/or Features Affecting Value* (Form RES-207) is completed per Appendix 4-1, part IIC, Tab C, Part ii, Section I, Page 3.

4. *Short Form Appraisal Report* (Form RES-208) is completed per Appendix 4-1, Part IIC, Tab D, Part ii, with the additional information added to item 5c that states the appraisal problem is a strip taking, necessitating a strip appraisal. Only the affected improvements are evaluated per their contributory value in item 5d. Any damage items are discussed and supported in Item 6.

5. Report of *Contact with Owner* (Form RES-204) and all Addenda items required per Appendix 4-1, Part IIC, Tab D, Part ii, Items F through K are attached.

B. Abbreviated Appraisal Report Format:

1. Page 1, *Certificate of Appraiser* (Form RES-205) is completed per Appendix 4-1, Part IIC, Tab C, Part ii, Section I except that the "before" and "after" values are left blank and "Strip Appraisal" is inserted after the "VALUE DIFFERENCE" amount.

2. The rest of the report uses *the Abbreviated Appraisal Report* (Form RES-213) as per Appendix 4-1, Part IIC, Tab E, Part ii, Items B through F; with the additional statement in "Appraisal Problem" on said form explaining the appraisal and method as a strip evaluation.

Part III Revision of Appraisal Reports

A. Rules

1. The Director, Real Estate Services, retains a complete appraisal report concerning each parcel being appraised for the acquisition of right of way. All corrections or revisions to an appraisal are made by correction pages or supplemental sheets. All replaced pages from the original appraisal are retained in both Headquarters and Region parcel files. Replaced pages are removed from the Appraisal, marked VOID and fastened to the back of the revised appraisal report.

2. The Region Appraisal Supervisor requests a revision by letter for the purpose of:

   a. Reconciling the date of evaluation to the date of acquisition in the following circumstances:

      (1) Delayed negotiations, when Region Real Estate Services Manager (Region RESM) has reason to believe the previous evaluation does not reflect just compensation at the time of negotiations.

      (2) Trial in Superior or Federal courts.

   b. Obtaining correction to a previous evaluation, necessary because of Appraiser's errors, omissions, or oversights.

3. The Region Appraisal Supervisor prepares a new *Personal Services Contract* or Staff Assignment Form when:

   a. Revised right of way plans nullify the previously reported value evidence.

   b. Legal instructions from the Attorney General Division nullify previous value evidence.

   c. There is a new evaluation premise.

   d. There are additional appraisal requirements.

4. A revision or correction of an appraisal report is made only by the Appraiser who developed the initial report.

5. In condemnation cases, when the court has set a definite date for trial, notice of the trial date is furnished by the Attorney General Division to the Region and to Headquarters. The assigned Appraiser(s) whose appraisal(s) has been approved for negotiations is directed by assignment or contract to update his appraisal and submit the revision to the Region Appraisal Supervisor no later than 45 days prior to the scheduled trial date.

6. All revisions for trial purposes are date-stamped upon receipt in Region, and the original is immediately transmitted to Headquarters.

7. All written requests for a revision should give the reasons for the revision. A copy of the request is immediately forwarded to Headquarters.

8. The due date of a revised appraisal is set out in the contract or letter.

9. The Appraiser delivers the original and the number or copies specified by the contract or staff assignment form of a revised appraisal report or correction or supplemental sheets to the Region.

10. A revised appraisal report nullifies the evaluation of the initial report and all prior revisions.

11. Compensation for the revision requested by the department is set forth in the *Personal Services Contract*.
12. WSDOT is not obligated to pay for a revision to an appraisal which has not been authorized by contract.

B. Procedures

1. Upon receiving an assignment to update or revise, the Appraiser:
   - a Contacts the Region Appraisal Supervisor to achieve a mutual understanding of the necessity to update and/or revise the prior appraisal report.
   - b. Acquires the current information concerning the right of way plan, construction features, title information, appraisal premise, and legal opinions pertinent to the appraisal.
   - c. Reexamines the market for all sales, rents, leases, costs, or other information that may be pertinent to the current evaluation.
   - d. Reexamines the parcel being appraised to ascertain current physical property conditions, fee interests, and property rights.
2. If investigation produces market data that changes the prior evaluation, the Appraiser submits the pertinent information in accordance with this *Appraisal Guide* (Appendix 4-1), either as a completely new appraisal or as correction and supplemental sheets to be incorporated into the prior appraisal. The Appraiser sets forth the reasons for the revision in "Purpose of Appraisal."
3. Revisions made by corrections or supplemental sheets may use any and all sheets of the previous appraisal that remain pertinent to the appraisal. All correction and supplemental sheets are identified by showing the revision number in conjunction with the page number. For example: page 1, *Certificate of Appraiser* (Form RES-205), would, always, of necessity, require a corrected page. The correction would be indicated after the page number by typing "Revised" and the date of the revision. The same procedure is required on all corrected and supplemental pages.
4. Appraisal revisions submitted as a completely new appraisal report do not require the notation "Revision" to be typed after the page number since the prior appraisal report will be stamped "See Revision Dated ...." to indicate there is a revised appraisal report.
5. Where the examination of the market indicates that no change of the previous evaluation is evident, the Appraiser informs the department of findings by letter addressed to the Region Appraisal Supervisor. The date of evaluation then becomes the date of the validating letter. The validating letter will be attached to a revised *Certificate of Appraiser* (Form RES-205).
6. Upon receipt of a revised report, correction pages, supplemental pages, or updating letter, the Region immediately date-stamps the report, and submits the original to Headquarters.

Chapter 5 Appraisal Review

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5-1 General

Appraisal review is a Headquarters function performed by designated Review Appraisers. All appraisals of real property and property rights to be acquired for or sold by the Washington State Department of Transportation (WSDOT) are reviewed by a qualified Review Appraiser before negotiations are started.

5-2 Responsibilities

5-2.1 Assistant Director, Appraisal and Appraisal Review Program

The Assistant Director, Appraisal Program's (ADAARP) responsibilities include:

A. Assignment of appraisal reviews to designated Review Appraisers.

B. Resolving controversial appraisal review problems. ***Exception:*** The manager may not intercede in, or alter a Determination of Value (DV) (Form RES-214) made by a Review Appraiser.

C. Monitoring designated Review Appraisers to ensure the uniformity and quality of appraisal reviews. This is done through spot check field and procedural reviews; also, by obtaining corrected, missing, and/or additional data, and requesting corrective action on DVs.

D. Interpreting the intent and meaning of the appraisal review requirements when questions arise.

E. Determining and approving "just compensation" for those parcels on which the manager acts as Review Appraiser.

5-2.2 Review Appraiser

The Review Appraiser regards an acceptable appraisal as an important consideration in the completion of the DV and the appraiser as a consultant and market analyst. The review process establishes the approved "just compensation" (see Section 5-5.1C11).

A. All appraisals are reviewed to:

1. Ensure that appraisal reports contain or reference sufficient information (e.g., studies or other previously submitted appraisals) to support the conclusions of the report; also, that appraisal reports conform to established appraisal practices and WSDOT requirements as described in the *Appraisal Report Guide* (Chapter 4, Appendix 4-1).

2. Ensure that the appraisal is equitable and that the property owner will be receiving "fair and just" compensation in accordance with the *Real Property Acquisition Act* (RCW 8.26), the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, and current eminent domain law.

B. The Review Appraiser may use a method of review that takes into consideration valuations of other properties on the project.

C. The Review Appraiser establishes the "just compensation" (usually fair market value) of the property and/or property rights and reports the compensation on a DV. The DV may be revised anytime prior to final settlement to reflect later evaluation evidence, a property owner's appraisal, or highway plan revisions. All DVs are documented with the original retained in Headquarters and a copy retained in region.

5-3 Preliminary Procedures

5-3.1 Preliminary Review

It is recommended that all projects consisting of significant numbers of parcels and/or complexity be inspected and reviewed prior to submitting project funding estimates for authorization and funding.

This is done to save time and effort in the appraisal and negotiation stages. An inspection team consisting of a region appraisal representative (supervisor, senior appraiser, or staff journeyman appraiser), a review appraiser, and a relocation agent (when applicable) identifies the following:

A. Special types of appraisals and the need for specialists, consultants.

B. Environmental and shoreline management problems.

C. Public or semipublic agency parcels and railroads.

D. A need for legal opinions.

E. A need for plan modifications and revisions to avoid or mitigate damages.

F. "Uneconomic remnants" and possible trade or exchanges for surplus properties or excess right of way.

G. A need for copies of leases which would establish the ownership of buildings, structures, and other improvements as real property, for appraisal and acquisition purposes.

H. Items that will be appraised and acquired as realty fixtures.

I. Items that are determined to be personalty for Relocation Assistance purposes.

5-3.2 Joint Inspection With Owner

For commercial and industrial improved properties, the review appraiser and a relocation agent are required to attend the appraisers joint inspection with the property owner. This is for purposes of clarifying and identifying realty vs. personalty items as well as to ascertain ownership rights.

5-3.3 Desk Review

The Review Appraiser "desk reviews" all appraisals of each parcel to assure proper project and parcel identification, adequate response to the assignment, application of proper technique, completeness, and mathematical accuracy. The Review Appraiser is provided with their own copy of the appraisal report.

5-3.4 Field Review

The Review Appraiser examines the subject property in the field and the market facts on which conclusions of value depend. Appropriate sources (buyers, seller, brokers, public records) may be contacted to verify statements of fact, the adequacy of the market search, and the appraiser's understanding of the impact of the WSDOT plan on the subject property. The Review Appraiser may contact other sources of information to establish parameters of value, or to determine whether additional expertise is required to assist the appraiser in completing an acceptable report.

5-4 Analysis of Appraisal Reports

5-4.1 Requirements

The Review Appraiser analyzes the appraisal report to assure that the report:

A. Conforms to the requirements of:

1. The *Appraisal Report Guide* (Chapter 4, Appendix 4-1).
2. The Appraisal Contract or the Staff Appraiser Assignment Form (Form RES-203).
3. Any special instructions.

B. Clearly states the appraisal problem as influenced by the WSDOT's project.

C. Incorporates specialists' opinions (e.g., value of timber, fixtures, etc.) as they contribute to the value of the whole property, rather than as arbitrary additions to the value of the real property. In the case of tenant-owned real estate (building structures and/or other improvements), the specialists' opinions of value are to reflect two premises: (l) Contribution value to the whole property; (2) Value for removal (orderly liquidation value).

D. Clearly presents:

1. An explanation of the appropriate evaluation principles.
2. The market evidence and/or other supporting evidence.
3. A list of items considered part of the realty as well as further comments on items that might be in a "grey" area — e.g., drapes, dishwashers, stoves, special light fixtures, etc., when applicable; or building structures or other improvements to be added to the appraisal.
4. The value estimate.

E. Excludes noncompensable items.

F. Neither omits nor contradicts any factual data that was available to the appraiser.

G. Contains no conflicting statements or erroneous conclusions.

5-4.2 Minor Deficiencies

In the case of minor deficiencies in the appraisal report, the Review Appraiser:

A. Does not delay arriving at a DV.

B. Makes notation of the following types of errors on a memorandum, sends the memorandum to the Region Real Estate Services Manager (RESM) (or Appraiser Supervisor) and on the DV notes: "See Memorandum dated _____."

1. Mathematical errors.
2. Project identification data.
3. Parcel numbers.
4. Owner's name.
5. Parties to the transaction, excise tax number, and date of purchase for either sales of the subject property or comparable sales.
6. Location, zoning, or present use of either the subject property or of comparable sales.
7. Nonconformance with the *Appraisal Report Guide* (Chapter 4, Appendix 4-1) and/or departmental standards.

5-4.3 Major Deficiencies

A. Major deficiencies are usually found in the following areas: analysis, reasoning, and conclusions. When the Review Appraiser finds that the appraisal report needs clarification or contains substantive errors, the following actions are taken:

1. Prepares a memorandum stating the critical deficiencies or the need for clarification.
2. Transmits the original of the memorandum to the RESM and sends a copy to the ADAARP. Retains the review copy of the appraisal pending receipt of corrections or revisions.
3. Attends appraisal conferences as necessary and/or advises the Region Appraisal Supervisor.

B. The RESM after examination of the memorandum and a file copy of the appraisal report:

1. Confers with the Review Appraiser, the Region Appraisal Supervisor and/or other affected personnel as needed.
2. Forwards the appraisal report by memorandum to the staff appraiser or by letter to the fee appraiser with directions necessary to produce an acceptable appraisal report.

5-4.4 Rejection

A. If, having taken the actions specified in Section 5-4.3, an acceptable report is still not obtained, the Review Appraiser prepares a memorandum citing the reasons for the rejection. The memorandum is submitted to the ADAARP.

B. The ADAARP reviews the appraisal report and the memorandum. The ADAARP either:

1. Upon concurrence:
   a. Signs and dates the memorandum.
   b. Attaches the original of the memorandum to the original of the appraisal report, and places them in the Headquarters parcel file.
   c. Sends copies of the memorandum to the RESM and the Region Appraisal Supervisor.
2. Upon nonconcurrence returns the memorandum to the Review Appraiser stating the actions to be taken or becomes the Review Appraiser and prepares a DV.

C. The RESM (or Region Appraisal Supervisor) reviews the memorandum and:

1. Attaches a copy of the memorandum to the appraisal report in the parcel file.
2. Gives a copy of the memorandum to the appraiser.
3. Initiates action to secure an acceptable appraisal report from a different appraiser.

5-4.5 Owner's Appraisal Report

A. If the property owner submits an appraisal report — whether self-made or from any other source — the Review Appraiser reviews it disregarding the report's format and takes the following actions as appropriate:

1. If the owner's appraisal report or any part thereof presents useful value information:
   a. A new DV is prepared using the procedures specified in Section 5-5 below.
   b. Copies of the owner's appraisal report are distributed in the same manner as if the report had been prepared by or for WSDOT.

2. If the owner's appraisal report does not present significant new value information:

   a. The Review Appraiser makes a copy of the owner's appraisal report to be retained by the reviewer in accordance with the "Uniform Standards of Professional Appraisal Practice."

      The Review Appraiser returns the owner's original appraisal report to the RESM together with a memorandum identifying the parcel and the project (number and title), and stating:

      (1) The appraiser's name.

      (2) The date of the owner's appraisal report.

      (3) The value reported.

      (4) The reasons for not preparing a new DV based on the owner's appraisal report. The Review Appraiser must state the specific reasons for rejecting the owner's appraisal report so the owner will know why the appraisal was rejected.

   b. The RESM assures that the owner's appraisal report is returned to the owner through the Region Real Estate Services Acquisition Agent. The RESM includes a letter which clearly states the reasons the owner's report was unacceptable as a basis for a revised offer.

5-5 Determination of Value (DV) — Preparation/Distribution

5-5.1 Normal Preparation/Distribution

A. The Review Appraiser prepares the DV upon receipt of the copy of the appraisal report. This appraisal report must contain an unbiased evaluation of all available market value evidence.

   1. A desk review as specified in Section 5-3.3.

   2. A field review as specified in Section 5-3.4.

   3. One acceptable appraisal report. More than one acceptable appraisal report may be required by the Review Appraiser prior to the review if the proposed acquisition is complicated, or of a controversial value nature.

   4. A comparison of values to guarantee consistent value patterns between similar parcels on the project.

B. The Review Appraiser fills in the following data on the DV:

   1. The number of the DV for this parcel (e.g., 1, 2, etc.).

   2. The Review Appraiser's name.

   3. The project and parcel identification data taken from the *Right of Way Plan*. When a prior acquisition from the same property has been completed, the parcel number(s) of the prior acquisition is inserted on the DV above the new parcel number by adding the following text:

      "Prior Acquisition Parcel No._____."

   4. The appraisal history which includes all appraisals made for WSDOT and all appraisals submitted by the owners that have been used as a basis for value determination.

   5. The appraisal review history which includes all prior DVs.

C. In the center section of DV #1, the Review Appraiser includes a narrative stating:

1. The extent of the Review Appraiser's inspection of property and sales, including confirmations.
2. Information, if any, with regard to hazardous materials as contained in the Hazmat Database.
3. The adequacy of the property description in both the "before" and "after" situations.
4. The differences between appraisals, if more than one appraiser was used, or if there is an appreciable change in value between an original appraisal and a later updating.
5. A range of market evidence and whether the appraiser's conclusions fall within the range.
6. A statement of concurrence with the application of market evidence and final conclusions.
7. Whether the appraisal follows special instructions and whether it contains copies (if required) of specialists' reports.
8. "Before" and "after" values except for noted minimal and strip appraisals.
9. An allocation of the value for the subject land and the improvements is shown or referenced to an appraisal report sheet. Both the "before" and "after" situations are described.
   - Totals of "before" and "after" values are rounded to be consistent with normal real estate transactions.
   - The difference between the "before" and "after" values equals just compensation except when the special benefits exceed the acquisition plus damages.
   - Identify acquired buildings individually.
   - Identify fixtures appraised as real estate.
   - Designate buildings, structures, signs, and other improvements owned by tenant/lessees.
   - Just compensation due the tenant/lessee for said items is determined by the Review Appraiser at the higher of the two valuation premises, as defined in Section 5-4.1C.
10. If the appraisal and DV cover two or more parcels, an allocation of the just compensation is made on an attached exhibit to the DV covering each parcel.
11. If an "uneconomic remnant" is involved, see Section 5-5.2 below.
12. Just compensation based on the appraisal(s). Allocation of this just compensation is made to acquisition, damage items, and benefits. If the Review Appraiser is satisfied with the appraisal but comes to different conclusions, the differences are explained and new supporting evidence (if any) is attached to the DV.
13. The amount of the approved just compensation that is eligible for federal participation. If the right of way project does not have federal funds participation, the last sentence on the DV beginning "I further certify . . . " is crossed out.
14. The date of the approved just compensation, which is the date of the last inspection by either the appraiser or the reviewer. The signature date is the date the Review Appraiser signs the DV and does not precede the date of just compensation.

D.

1. If the Review Appraiser is not satisfied with the appraisal or corrections, a second appraisal may be requested in a memorandum addressed to the RESM. The memorandum should include the reasons why the corrections or second appraisal are needed.
2. If a new DV is prepared, the Review Appraiser:
   a. Numbers each DV for a parcel in sequential order, e.g., DV #2, DV #3, etc.
   b. Fills in the appraisal and review history.
   c. Evaluates all the latest appraisal evidence or map change information.
   d. Gives the justification for the changes on the new DV and references those items which appeared on the previous DV which still pertain to the current DV.
   e. Completes the DV in the usual manner.

E. Private Access Easements for Transfer

When a R/W plan shown an "Access Easement for Transfer" across a private owner (A), the servient tenement, to serve another single private owner (B), the dominant tenement, we cannot condemn for the easement. We cannot use public money to provide private access to a third party because this situation is not a **public use,** as defined in R.C.W. 8.04.070.

1. The Review Appraiser prepares a two-premise DV for each property. The Before description and valuation is the same for both premises. The After description and valuation is different.
   a. For Owner A, the first premise in the After situation is without the easement. The second premise in the After is with the easement.
   b. For Owner B, the first premise in the After situation is without the easement from Owner A. The second premise in the After is with the easement from Owner A,

F. The ADAARP routes the original of all DVs to the permanent file.

G. The Region Appraisal Supervisor:

1. Forwards one copy of the DV to the RESM.
2. Forwards one copy of the DV to the Region Acquisition Supervisor.
3. Enters DV data into the computer system.

5-5.2 Uneconomic Remnant

A. On behalf of WSDOT, the Review Appraiser determines whether a remainder (or any part thereof) qualifies as an “uneconomic remnant” based upon the following guidelines:

1. An “uneconomic remnant” is a remainder which has little or no utility or value to the owner.
2. A parcel remainder, or part of a severed ownership, should be declared an “uneconomic remnant” even though such was its status before the acquisition because it has been further reduced in utility.

B. The final paragraph on the DV shall clearly identify the “uneconomic remnant,” support its declaration as such, and state its value. This paragraph is underlined or typed in italics.

Note: The DV is the acquisition agent’s authority to offer to purchase an “uneconomic remnant.”

5-5.3 Surplus Property

When it has been determined that a state-owned real property or property right (including any improvements thereon) has become surplus to WSDOT's needs, an appraisal is prepared as specified in Appendix 4-1. The Review Appraiser:

A. Reviews the appraisal as specified in 5-4.

B. Completes a DV for Surplus Property.

C. Returns the completed DV to the Appraisal Program Manager. The Review Appraiser may include data and explanations if data is weak or insufficient, an indication of a value range rather than a specific value and recommendations for the means of disposal.

D. Access modifications shall be appraised on a "before and after" premise. If the appraised surplus property right is an access modification, establishes the value of the access rights to be conveyed at no less than $1,500 per WSDOT's policy for access conveyances in Section 1420.09(2)(c) of the *Design Manual* (M 22-01).

5-5.4 Minimum Payment Policy

It is the policy of WSDOT that an acquisition DV will not be prepared for less than $500 except in the event of Special Benefits in which case the minimum amount of the DV is zero.

5-6 Appraisal Review for Other Public Agencies

Appraisal reports from local public agencies and other state agencies are reviewed for conformance to federal standards and WSDOT operating requirements for validity and support of value conclusions. (See Appendix 4-1, *Appraisal Report Guide*.) This necessitates that the reports be accompanied by a copy of the appraiser's contract and a determination that the report has complied with the agency's appraisal contract. The agency will attach a letter requesting the review, along with:

A. A dated map showing the parcel boundary.

B. The before, after, and/or acquisition areas.

C. Sufficient engineering data to show the effect of the project on remainder properties.

The submitting agency is responsible for obtaining necessary replacements for unacceptable appraisal reports and for obtaining any substantive revisions of inadequate reports furnished to WSDOT by the agency. Requests for appraisal review service of less than WSDOT standards (such as field inspection and independent value conclusions) may be refused and returned to the agency.

Typically, the WSDOT Review Appraiser is not authorized to set Just Compensation for Local Agencies. This authority is given to an official within the agency.

The Review Appraiser prepares a "Certificate of Value", in accordance with the Local Agency Guide. The Certificate of Value includes a Statement at the bottom of the document for concurrence by the appropriate official of the local agency.

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6-0 Acronyms

AG	Attorney General
BLM	Bureau of Land Management
CFR	Code of Federal Regulation
CS	Control Section
DNR	Department of Natural Resources
DRES	Director, Real Estate Services
D/V	Determination of Value
EIS	Environmental Impact Statement
FA No.	Federal Aid Number
FHA	Federal Housing Administration
FHWA	Federal Highway Administration
JC	Just Compensation
J&D	Judgment and Decree
NEPA	National Environmental Policy Act
OAPU	Order Adjudicating Public Use
PFE	Project Funding Estimate
PMS	Property Management System
PS&E	Plans, Specifications and Estimates
P&U	Possession and Use Agreement
RES	Real Estate Services
RESM	Real Estate Services Manager
RCW	Revised Code of Washington
R/W	Right of Way
SEA	Statutory Evaluation Allowance
SEPA	State Environmental Policy Act
SR	State Route
USC	United States Code
USFS	United States Forest Service
WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation
VFD	Volunteer Fire Department

6-1 General Requirements

6-1.1 Introduction

Section 8.26.010 of the Revised Code of Washington provides the following:

> The state shall: (1) establish a uniform policy for the fair and equitable treatment of persons displaced as a result of public works programs of the state and local governments in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole; and 2) encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices. (1971 1st ex.s c240S 1.)

This chapter provides the regulations and procedures which are necessary to carry out these objectives.

6-1.2 Rules

A. Negotiated Purchase — Every reasonable effort shall be made to expeditiously acquire real property by negotiation.

B. Just Compensation — Prior to initiation of negotiations for real property, and/or property rights, the Washington State Department of Transportation (WSDOT) shall establish an amount which it believes to be just compensation. In no event shall such amount be less than the WSDOT's approved appraisal of the market value of such property. In determining just compensation, any decrease or increase in the market value prior to the date of valuation caused by the public improvement or by the likelihood that the property would be acquired for such improvements, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded.

C. Summary Statement — Upon initiation of negotiations, WSDOT shall provide the owner of real property and/or property rights to be acquired with a written statement of, and summary of the basis for, the amount it has established as just compensation for the proposed acquisition. As a minimum, the summary statement shall include:

1. The amount established as just compensation.
2. A statement explaining that the offer is based either on WSDOT's review and analysis of an appraisal(s) of such property made by a qualified appraiser(s) or by an administrative procedure.
3. Identification of the real property to be acquired, including the estate or interest being acquired.
4. Identification of improvements and fixtures considered to be part of the real property to be acquired.
5. The amount of just compensation for the real property to be acquired and any amount included for damages to remaining real property shall be separately stated.

D. Occupancy — No legal occupant shall be required to surrender occupancy of real property before: (1) the agreed purchase price is paid; or (2) there is deposited with a court having jurisdiction over such property, for the benefit of parties of interest, an amount not less than WSDOT's approved appraisal of the market value of such property, or the court's award of compensation.

E. Coercion — In no event will WSDOT in order to compel an agreement on the price to be paid for the property:

1. Advance the time of condemnation; or
2. Defer negotiations; or
3. Defer condemnation and the deposit of funds in court for use of the owner; or
4. Take any other action coercive in nature.

F. Uneconomic Remnant — If the acquisition of only part of a property would leave its owner with an uneconomic remnant, WSDOT shall offer to acquire the uneconomic remnant.

G. Special Conditions — No payment shall be made to a tenant-owner for any real property improvement unless:

1. The tenant-owner, in consideration for the payment, assigns, transfers, and releases to WSDOT all of the tenant-owner's right, title, and interest in the improvement; and
2. The owner of the real property on which the improvement is located disclaims all interest in the improvement; and
3. The payment does not result in the duplication of any compensation otherwise authorized by law.

H. Alternative Compensation — Nothing in this section shall be construed to deprive the tenant-owner of any right to reject payment under this section and to obtain payment for such property interests in accordance with other applicable law.

I. Incidental Expense Reimbursement — The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

1. Recording fees, transfer taxes, excise tax when applicable, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to WSDOT. However, WSDOT is not required to pay costs solely required to perfect the owner's title to the real property; and
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage or deed of trust entered into in good faith encumbering the real property; and
3. The pro rata portion of any prepaid real property taxes which are allocable to the period after WSDOT obtains title to the property or effective control of it, whichever is earlier.

   Whenever feasible, WSDOT shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement.

J. Donations — Nothing in these regulations shall prevent a person, after being informed of the right to receive just compensation based on an appraisal of the real property, from making a gift or donation of real property or any part thereof, or any interest therein, or of any compensation paid therefore, to the state. WSDOT is responsible for assuring that an appraisal of the real property is obtained unless the owner releases WSDOT from this obligation.

K. Civil Rights — The right of way acquisition function shall be conducted in such a way and manner as to assure that no person shall, on the grounds of race, religion, sex, or national origin, be denied the benefits to which the person is entitled, or be otherwise subject to discrimination.

L. Conflict of Interest — The Acquisition Agent may not accept the assignment of a parcel:

1. After having appraised or assisted in the appraisal or review of appraisals on the parcel. If the determination of value is $10,000 or less, the appraiser (but not the reviewer) may act as the Acquisition Agent.
2. If personally acquainted with or related to the property owner where such acquaintance or relationship might tend to influence or prevent acting in an unbiased and professional manner.
3. In violation of the department's directive on Conflict of Interest and Employment (D 73-26).

M. Relocation Assistance — When the acquisition of right of way requires the displacement of any family, individual, farm, business, nonprofit organization or their personal property, that party or organization may be entitled to payments, separate and distinct from the acquisition compensation, in order to alleviate the costs of moving and replacement housing. Such payments and matters pertaining to eligibility therefore are the subject of Chapter 12 of this manual.

6-2 Normal Preparation

6-2.1.1 Plan Preparation

A. The Region Real Estate Services Manager (RESM) attends all public meetings to provide information as needed. Written information explaining the state's acquisition and relocation policies will also be available.

B. The Region RESM serves as a member by appointment of the interdisciplinary team to provide information and expertise on such issues as:

1. Route selection.
2. Reconnaissance estimates.
3. Wetlands, cemeteries, gas stations, etc.
4. Right of Way Plan preparation.

6-2.1.2 Project Inspection and Parcel Assignment

The Region RESM ensures that:

A. The Right of Way Plan sheets are accurate with respect to ownership details and rights to be acquired.

B. Authority to purchase the necessary property rights has been received.

C. The project has been physically inspected.

D. The appropriate computer entries have been made.

E. Any remainder whose water supply may be affected by the state's taking is identified. The procedures given in Chapter 8 are followed.

F. Any recent or pending public improvement assessments are identified.

G. Action is taken in accordance with Chapter 8 to identify and clear utility interests on a project-wide basis.

H. Individual parcel files are prepared which include:

1. Title report and assessor's total area.
2. Appraisal report if appropriate.
3. Determination of Value (Form RES-214) or Administrative Offer Summary (Form RES-216).
4. Salvage Appraisal Report (DOT Form 263-003) (if applicable).
5. Appropriate Right of Way Plan sheet(s).
6. Relocation Assistance booklet (if applicable).
7. Acquisition **booklet**.

I. The Special Acquisition Manager is notified of any parcels which are to be acquired through Headquarters negotiations.

J. Complete sets of Right of Way Plan sheets are available.

6-2.2 Acquisition Agents Actions Prior to Contact With the Owner

The Acquisition Agent:

A. Adds to the parcel file the Diary of Right of Way Activities — Acquisition.

B. Reviews the title report(s). Checks the description to ensure conformity with Right of Way Plans; determines the action to be taken with respect to each encumbrance; obtains any supplemental title reports which may be necessary through the Region RESM.

C. Studies the appraisal report and the Review Appraiser's Determination of Value or Administrative Offer Summary (Form RES-216), taking special note if there are any tenant-owned improvements identified.

D. Studies and investigates all details of the Right of Way Plans as well as the profiles, cross sections, and road approach schedules from the design report for complete familiarity and understanding.

E. Reviews hearing transcript and EIS documents when available.

F. Makes an on-site inspection of the proposed acquisition. Notes evidence of any recent or pending public improvements (because these may cause an assessment). Notes physical access in the before and after situations. Notes any item (e.g., improvements, utilities, etc.) which may have been missed in the title report and/or the appraisal.

G. Coordinates with Relocation Assistance and Property Management as required. If improvements are to be rented back to grantors, follows procedures in Chapter 11.

H. Prepares an appropriate "Offer Letter" in accordance with specific guidelines shown in Figure 6-2.2H. Each letter is individually prepared on region letterhead, error-free. ***Note:* If the offer is administrative, the offer letter must not say the property has been appraised.**

I. Whenever possible, prepares the instruments and vouchers necessary to complete the transaction (see Section 6-6, and Chapters 9 and 13).

1. Title is acquired by a recordable deed when:
   a. The Right of Way Plan indicates a fee title acquisition.
   b. The parcel owner will be deprived of use of the area to be acquired.
   c. The state is to locate facilities and/or utilities in the area to be acquired.

2. Title is acquired by a recordable easement when:
   a. The Right of Way Plan indicates an easement area.
   b. The parcel owner may derive some use of the area to be acquired.
   c. The state is to maintain the item to be constructed.
3. Title is acquired by a recordable temporary easement when:
   a. The Right of Way Plan indicates a construction area.
   b. The parcel owner:
      (1) Will derive use of the area to be acquired.
      (2) Will benefit from the item to be constructed.
      (3) Will maintain the item to be constructed.
   c. The state requires the area for construction purposes only and will return the area to its former use, appearance, and configuration.
4. An interest in property is acquired by special purpose instruments (e.g., permit, options, leases, agreements, consents, releases) as specified by the Region RESM.

(Name and Address of Owner)

_____

_____

Re: SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

Dear _____:

The Washington State Department of Transportation (WSDOT) plans to proceed with the above-titled public project. As a part of the project, we need to purchase your property and/or property rights identified on the "Right of Way Plan" by the "parcel number" listed above. The bearer of this letter is the department's agent in completing this transaction.

Your property has been examined by qualified appraisers and appraisal reviewers who have carefully considered all the elements which contribute to the market value of your property. By law, they must disregard any general increase or decrease in value caused by the project itself. Based upon the market value estimated for your property, [enter Options 1, 2, 3, or 4 and appropriate Additional clauses A through G, as listed in the attached exhibit].

Payment for your property and/or property rights will be made available to you by certified mail approximately 45 days after you accept the department's offer, provided that there are no delays in closing the transaction. The date on which payment is made available to you is called the "payment date." On that date, the state becomes the owner of the property purchased and responsible for its control and management.

You may wish to employ professional services to evaluate the state's offer. If you do so, we suggest that you employ well-qualified evaluators so that the resulting evaluation report will be useful to you in deciding whether to accept the state's offer. The state will reimburse up to $750 of your evaluation costs upon submission of the bills or paid receipts.

If you decide to reject the state's offer, the state, acting in the public interest, will use its right of eminent domain to acquire your property for public use. In conformity with the Washington State Constitution and laws, the Attorney General will file a condemnation suit to obtain a "Court Order of Public Use and Necessity," and a trial will be arranged to determine the just compensation to be paid for the property.

The Internal Revenue Service (IRS) requires that the state obtain your correct taxpayer identification number (TIN) or social security number (SSN) to report income paid to you as a result of this real estate transaction. You will be required to complete the attached W-9 form and provide it to the department's agent upon acceptance of the state's offer. If you want additional information, please contact an IRS office.

We have attempted by this letter to provide a concise statement of our offer and summary of your rights. We hope the information will assist you reaching a decision. Please feel free to direct any question you have to the undersigned. May we please have your early reply as to acceptance or rejection of this offer?

If you have personal property presently located on the property being acquired by WSDOT that needs to be moved, WSDOT will reimburse you for the cost of moving it through the Relocation Assistance program.

Thank you.
Sincerely,
(name)
Region Administrator

By:
Right of Way Agent
Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

_____
Signature Date

Note: *Only the optional paragraphs that are applicable to the individual case are included in the offer letter*

Offer Letter
Figure 6-2.2H.

Option No. 1: (Total acquisition.)

Our offer is $_____ for (front feet, square feet, acres) of land and (house, garage, pump house and pump, etc.)

[Add clauses C, D, E, and F as required.]

Option No. 2: (Partial acquisition.)

Our offer is $_____. This offer consists of $_____ for (front feet, square feet, acres) of land (access rights) and (house, garage, pump house and pump, etc.) and $_____for all (severance or proximity) damages.

[Add clauses A, B, C, D, E, F, and G as required.]

Option No. 3: (Used for less than fee acquisition.)

Our offer for (an easement/permit, etc.) across the portion of your property needed for the project is $____. This offer consists of $____ for loss in market value (damages) to your property and $____for (list any improvements acquired).

[Add clauses B, C, D, E, F, and G as required.]

Option No. 4: (Used for acquisition of access rights only.)

Our offer for the purchase of access rights is $_____.

[Add clauses A, B, and D as required.]

Option No. 5: (Used when administrative offers made and no appraisal was completed. The paragraph stating that an appraisal was made must be eliminated from the offer letter.)

An administrative offer of $ is being made for your property or property rights.

[Enter Options 1, 2, 3, or 4 and appropriate Additional clauses A through G, as listed in the attached exhibit.]

Note: If the AOS states that amount is per minimum payment policy, then add the following verbiage "per WSDOT's minimum payment policy"

An administrative offer (based on market research) is used when the property rights being acquired involve compensation of less than $10,000. If you feel an appraisal is necessary, the department will have one prepared.

Option No. 6: (Used when parcel is subject to leasehold or multiple interests.)

Our total offer is $_____. This lump-sum offer consists of $_____ for the real property being acquired and $_____ for the damages to the remaining real property.

Although the state has provided a summary of the elements of its offer, state law provides for a lump-sum determination of the total amount of damages which should result to all persons, tenants, and encumbrancers who have an interest in the property being acquired (RCW 8.04.110). The department is willing to enter into separate settlements for the separate items that are being acquired or damaged when all parties have agreed to their separate settlements.

Both (property owner) and (sign/lessee owner) must take part in the final settlement of this property acquisition. Payment for your property interests will be made available to you as a lump-sum approximately 45 days after you accept the department's offer, provided that there are no delays in closing the transaction. If the parties decide on a distribution amount owed to each of them, the department will issue separate warrants upon the request of all parties. The date on which payment is made available to you is called the "Payment Date." On that date, the state becomes responsible for the control and management of the property and/or property rights purchased.

(Separate offers will be made to the tenants for tenant owned improvements considered to be part of the real estate and to the owner for fee owned improvements and the land. Separate settlements will not be made without all parties to the transaction being in agreement. If the parties are not in agreement, the parcel will be referred to the Attorney General's Office for litigation and one lump sum payment will be made into the registry of the court.)

Option No. 7: Advance Acquisition, voluntary acquisitions, and acquisitions prior to Findings and Order Delete the following paragraph:

If you decide to reject the state's offer, the state, acting in the public interest, will use its right of eminent domain to acquire your property for pubic use. In conformity with the Washington State constitution and laws, the Attorney General will file a condemnation suit to obtain a "Court Order of Public Use and Necessity," and a trial will be arranged to determine the just compensation to be paid for the property.

Note: We will not or cannot condemn.

WSDOT will also pay Real Estate Excise Tax on these voluntary transactions.

Offer Letter Additional Clauses (page 1 of 2)
Figure 6-2.2H

Clause A: (If there is an uneconomic remnant, add):

It has been determined that the acquisition of the needed right of way will leave you with a remainder containing an area of _____. If you wish to keep this remainder, you may do so; however, if you prefer to sell it, the state will pay you the remaining value of $_____ for that property. This would be in addition to the amount offered in this letter for the purchase of the needed property.

Clause B: (Used in cases involving special benefits. Clear copies of RCW Chapters 8.25.210 through 8.25.260 are attached to the owner's copy of the Offer Letter, and the following clause is added to the letter):

The department's appraiser(s) conclude(s) that the completion of this project enhances the market value of your remaining property in the amount of $(Item 1), therefore, special benefits in the amount of $(Item 2) have been deducted in computing the offer. To inform you of optional methods of settlement of benefit cases, we have included herewith RCW Chapters 8.25.210 through 8.25.260. The undersigned agent is not authorized to explain or discuss the options provided in the statutes. If you require interpretation, we advise that you seek counsel of your choice.

Item 1: Enter the total amount of special benefits as shown on the approved determination of value.

Item 2: Enter the amount of special benefits that have been deducted in computing the offer. This amount cannot exceed the total of the market value of the property being acquired and the amount of damages, if any, to the remainder of the property.

Clause C: (If there are salvageable improvements affected and salvage was approved in advance, add):

If you choose to keep the improvements and remove them from the site, you may acquire the right to salvage these improvements by paying the salvage value of $_____and by posting a performance bond of $_____. Both of these may be paid by deducting them from the amount of the purchase price offered.

Clause D: (If owner or tenant is making no use of land/rights to be acquired, add):

The state will acquire occupancy of the property on the "payment date" as defined in this letter.

Clause E: (If the acquisition will result in the displacement of persons or personal property, add):

Owners and tenants of dwellings, businesses, farm operations, or non profit organizations being displaced cannot be required to move from the referenced property without being given a written assurance of at least 90 days prior to the date by which they will be required to vacate the property. In most cases, WSDOT will provide this assurance in the relocation letter entitled, "Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance". Occupancy of the property beyond the date the state acquires possession will require that a rental agreement be signed and rent be paid. If the occupant vacates the property within 30 days after the "payment date", the state will refund all prepaid rent.

Clause F: (If there are tenants in occupancy and the owner's salvaged improvements or personalty is to be removed, add):

By execution of a rental agreement with the state, you will be permitted a reasonable length of time to salvage improvements and/or to remove personal property after the date the property is vacated by any tenants now occupying or using the property.

Clause G: (If access to a remainder is by a frontage or service road to be constructed, add):

The state's plan provides for access to your remaining property by a roadway to be constructed. This offer is based on that premise. You are hereby informed, however, that construction of said roadway may be delayed until after construction of the main highway itself. In the interim, you will be provided with temporary access directly to the main highway. This temporary access will be closed and cease to exist when said roadway is constructed and operational.

Clause H: (If acquiring residential properties, add):

RCW 64.06 provides for a disclosure statement from sellers of residential property including multi-family dwellings up to four units and condominiums unless the Purchaser elects to waive the necessity of said statement. The Washington State Department of Transportation, as Purchaser of your property, does hereby waive the necessity of your providing the disclosure statement.

Offer Letter Additional Clauses (page 2 of 2)
Figure 6-2.2H

6-2.3 Identity of Parties

6-2.3.1 General

A. A title report may include encumbrances recorded against parties with the same or similar names as the record owners. These encumbrances (judgments, tax liens, etc.) usually do not include a property description and may not actually affect your property. Care must be exercised in determining the identity of parties concerned.

B. A title report may also question the ability of a party in interest to give a legal conveyance. These questions normally arise from the appearance of filings (by name) for dissolution of marriage (divorce), of guardianships, commitment of persons to institutions for the care of mental illnesses, etc.

C. It may also be appropriate for the Acquisition Agent to raise questions of personal identity and questions of legal capacity of any party in interest as a result of field investigation.

6-2.3.2 Rules

The state is responsible for determining and clarifying:

A. The identity of parties in interest.

B. The status (ability to give a legal conveyance) of parties in interest.

6-2.3.3 Procedures

The Acquisition Agent:

A. Questions the parties having direct and personal knowledge of the case (e.g., parties named, attorneys, relatives, etc.) on items as the following, as appropriate:

1. Full names.
2. Age of party.
3. Name of spouse.
4. Current and prior addresses.
5. Occupation.
6. Employer.

B. Includes a summary of the information and states conclusions in the encumbrance report (see Chapter 8) clarifying the question of identity or ability to convey.

C. If the investigation produces insufficient basis for a conclusion and/or if the party in interest does not acknowledge being the party against whom an encumbrance appears, requests completion of an identity questionnaire and affidavit (obtained from the title company issuing the title report) by the party in interest.

D. Any questions which cannot be resolved by the region may be referred to the Headquarters Assistant Director, Title and Condemnation Program.

6-3 Acquisition Agent's Contact With the Owner

6-3.1 Suggested Presentation Technique

The Acquisition Agent:

A. Contacts all parties having an ownership in property rights required (land, encumbrances, and improvements). Encourages a setting for meetings that will allow for proper display of maps and affords enough privacy to avoid unnecessary distractions.

B. Verifies that the person(s) to whom the offer is to be made is the parcel owner, contract buyer, or an agent for same who is authorized to convey the subject parcel.

C. Explains purpose of the project, what property rights will be required, and why.

D. Presents the state's offer orally and in writing. The state's offer is normally presented during the first or second personal contact with the owner(s) or their representative. Reviews the offer letter with the owner to ensure complete understanding. At the time of delivery of the state's offer letter, the acquisition agent should also provide the property owner(s) with a W-9 form to complete in accordance with procedures set forth in Chapter 10 of the Right of Way Manual.

E. Reviews the Right of Way Plans and title report(s) with owner for accuracy and completeness. In the case of a partial acquisition, points out the impact of the project on the remaining property such as water rights, drainage, access restrictions, road approach details, etc.

F. If there are no persons or personal property displaced by the state's acquisition, the agent so states in the diary.

G. If there are persons or personal property to be displaced, follows instructions in Section 6-4.2.

H. Obtains any information from the owner regarding tenants on the parcel to be acquired, with particular attention to:

   1. Identity of tenants and how to contact.
   2. Length of occupancy.
   3. Amount of rent paid.
   4. Confirms identity of any tenant-owned personalty or improvements, as shown in the appraisal and/or determination of value, or Administrative Offer Summary.

I. Obtains copies of unrecorded leases from owner or tenant.

6-3.2 Post-Meeting Responsibilities

6-3.2.1 Diary of Right of Way Activities — Acquisition (Form RES-301)

The Acquisition Agent makes detailed entries in the Diary of Right of Way Activities — Acquisition covering every contact, meeting, etc., involving the assigned parcels. These entries are made as soon as possible after each contact to assure accuracy. Upon completion of entries, the agent is to sign and date the diary. Diary entries are limited to a recitation of the facts because the diary is subject to the rights of discovery by all parties in any court proceedings. Diary entries include, but are not limited to, the following:

A. The date of the parcel assignment.

B. The date, time, telephone number, and full name (e.g., Mr. John F. Jones, not Mr. Jones) of any party of interest who is contacted by telephone.

C. The date, time, address, and place of every meeting with any party in interest. This includes the actual location of the meeting, e.g., the dining room of the owner's residence, Attorney John T. Smith's office in the Block Building, etc.

D. The full names of all adult participants in a meeting, and their relationship to the owner. If children are participants, note their approximate ages.

E. The amount in dollars of the state's offer and the fact that the offer was made both orally and in writing. The same information is given for any revised offers by the state.

F. A summary of the events of the meeting, including:

1. The owner's reaction to the state's offer.
2. Details of any counter offers, etc.
3. Owner's questions and Acquisition Agent's responses.
4. Any problems noted.
5. The explanation of the Statutory Evaluation Allowance.
6. The explanation of the Relocation Assistance Program.
7. If improvements are being acquired, an explanation of any salvage allowed.

G. Either an indication of who signed the receipts for the offer letter and for the Relocation booklet and the Acquisition booklet, or a statement that the letter and booklet were delivered, but that the owner refused to sign the receipts.

H. The details of any negotiated/administrative settlement that is reached, or the date of filing the Negotiators Report (Form RES-320) (see Section 6-10) and that all parties in interest have been notified of this action.

6-3.2.2 Relocation Assistance Eligibility

The Acquisition Agent sends the original Relocation Eligibility Report to the Relocation Section as soon as possible following the initiation of negotiations. This report is only necessary where there will be relocation assistance provided.

6-3.2.3 Continued Negotiation

The Acquisition Agent:

A. If there is a revision to the Right of Way Plan, or if there is a reappraisal, either of which result in a new or revised Determination of Value (Form RES-214), makes an appointment with the owners to present the state's revised offer. Uses the same general presentation as in the original offer except that the Agent presents the state's revised offer orally and in writing using the revised offer letter (see Figure 6-3.2.3A) or revised administrative offer letter (see Figure 6-3.2.3B), in which the occupancy date is restated as 90 days from the date of the revised letter. If the acquisition involves an owner-occupied dwelling, a revised Notice of Eligibility, Entitlements, and 90 Day Assurance letter must be presented.

(Use Region Letterhead)

(Name and Address of Owner)
_____
_____
_____

Re: SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

Dear _____:

In our letter dated _____, the State of Washington, Department of Transportation, offered to purchase property and/or property rights owned by you and identified as parcel number _____.

The appraisal which resulted in our offer has now been revised because _____. This revision makes it necessary to withdraw our earlier offer and make a new offer.

You may wish to employ professional services to evaluate the state's new offer. However, the $750 evaluation allowance mentioned in our original offer letter is a one-time allowance only.

(See Offer Letter sample for appropriate option(s), Figure 6-2.2H.)

Your rights, as summarized in our earlier offer letter, remain unchanged. May we please have your early reply as to acceptance or rejection of this offer? Thank you.

Sincerely,

(name)
Region Administrator

By:
Right of Way Agent
Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

_____
Signature Date

Revised Offer Letter
Figure 6-3.2.3A

(Use Region Letterhead)

(Name and Address of Owner)
_____
_____
_____

Re: SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

Dear _____:

In our letter dated _____, the State of Washington, Department of Transportation, offered to purchase property and/or property rights owned by you and identified as parcel number _____.

Changes have occurred which make it necessary to withdraw our earlier offer and make a new offer.

You may wish to employ professional services to evaluate the state's new offer. However, the $750 evaluation allowance mentioned in our original offer letter is a one-time allowance only.

(See Offer Letter sample for appropriate option(s), Figure 6-2.2H.)

Your rights, as summarized in our earlier offer letter, remain unchanged. May we please have your early reply as to acceptance or rejection of this offer? Thank you.

Sincerely,

(name)
Region Administrator

By:
Right of Way Agent
Telephone:

Receipt of this letter is hereby acknowledged. I understand that this acknowledgment does not signify my acceptance or rejection of this offer.

_____
Signature Date

Revised Administrative Offer Letter
Figure 6-3.2.3B

B. Submits any appraisal provided by the owner to the review appraiser, in accordance with instructions in Chapter 5.

C. Continues the negotiations until either:

1. A satisfactory settlement is reached. In this case, the Acquisition Agent prepares the Right of Way Acquisition Transmittal (DOT Form 262-048) and its accompanying data package as specified in Section 6-8.

2. A settlement cannot be reached. In this case, the Acquisition Agent prepares the Negotiator's Report (Form RES-320) and its accompanying data package as specified in Section 6-10 or 6-11.

6-3.3 Owner Represented by Others

6-3.3.1 General

A. The property owner (or any other party of interest) may choose to be represented by another party. Certain individuals (e.g., minors, incompetents, etc.) are required by law to have another party represent them.

B. An Attorney at Law may act as the owner's representative, but may not contract or convey in the place or name of the owner.

6-3.3.2 Rules

A. At the owner's request, the state conducts acquisition activities with the interested party's Attorney at Law.

B. The state accepts conveyances from the following duly authorized fiduciaries:

1. Attorney in Fact:

a. Individual — As provided in a recorded Power of Attorney that has not been revoked or superseded, if the principal is alive and mentally sound.

2. When confirmed or appointed by and acting under the order of the court:

a. Administrator or executor of the estate of a decedent.

b. Guardian of a minor, incompetent, or insane person.

c. Receiver of a corporation in receivership.

d. Referee or trustee of a person or business in bankruptcy.

C. Legal fees and owner's expenses required to pass good title to the state are payable as "incidental selling expenses" in accordance with Section 6-4.

6-3.3.3 Procedures

6-3.3.3.1 Attorney at Law

A. If the property owner (or any other interested party) is represented by an attorney, the Acquisition Agent deals only with that attorney. The Acquisition Agent requests the property owner to furnish written confirmation of the scope and fact of such representation. When furnished, such confirmation is made part of the parcel file.

B. If the property owner subsequently decides to deal directly with WSDOT, the Acquisition Agent requests that the owner furnish a letter of notification. When received, such letter is placed in the parcel file.

6-3.3.3.2 Attorney in Fact

A. When dealing with the officers of a corporation, the Acquisition Agent proceeds as specified in Section 6-5.

B. When dealing with an owner's Attorney in Fact (who may also be an Attorney at Law), the Acquisition Agent may accept conveyance from either the individual (the principal) or from the Attorney in Fact, provided (in the latter case) that the Acquisition Agent:

1. Reviews the recorded Power of Attorney and determines that the Attorney in Fact is authorized to convey the subject property.
2. Determines that the recorded Power of Attorney has not been revoked or superseded.
3. Uses the proper form of acknowledgment, etc. (see Section 9-15.1), thereby obtaining the Attorney in Fact's sworn statement that the principal is alive and of sound mind.
4. Includes a copy of the Power of Attorney, showing recording data in the transaction package when forwarded for processing.

6-3.3.3.3 All Other Fiduciaries

The Acquisition Agent:

A. May discover from either the title report or from field work that a fiduciary (administrator, executor, guardian, trustee, etc.) exists or is needed.

1. The title report will note the existence of a court-appointed fiduciary if the court action was in (or was recorded in) the county where the subject property is located.
2. Again, if the action took place in (or was recorded in) the appropriate county, the title report may note the existence of a problem, e.g., that the interested party (or a party of a similar name) was committed as insane (see Section 6-2 for procedures on "Identity of Parties").

B. If a fiduciary is needed, or if the existing court-appointed fiduciary does not have the power to convey, suggests that the party in interest obtain the services of an Attorney at Law.

C. Obtains a supplemental title report that identifies the duly-authorized fiduciary.

D. Deals with the fiduciary using the procedures of Section 6-3 and provided that:

1. Proper court proceedings are followed:

   a. In the case of a nonintervention will, the order of solvency must have been entered before the executor can legally convey to the state.

   b. In all other cases, the following court procedure is required:

      (1) Order of sale.

      (2) Posting and publication of notice of sale.

      (3) Independent Appraisal of the Property — The appraisal must be not more than one year old, and the sale must be for at least 90 percent of the independently appraised value.

      Note: The foregoing is for a total take. In the case of a partial take, if the department's appraisal and the court appraisal are close (10 percent) on the before value, the court could be expected to accept the department's evaluation of the take. Otherwise, the court's appraisal must be a complete

before and after type of appraisal, and the department's offer must be not less than 90 percent of the court's appraisal of the value of the take. The court's appraisal may be submitted as an owner's appraisal.

(4) Notice to the court on return of sale.

(5) Order Confirming Sale — This order legalizes the fiduciary's conveyance to the state; therefore, a copy is included with the transaction package.

2. The fiduciary makes a commitment to a reasonable attorney's fee (if any) to be charged to the state.

3. The proper forms of acknowledgment, etc., are used on the instrument(s) (see Chapter 9).

6-3.4 Out-of-State Owner

If an owner resides out-of-state or if so instructed by the Region RESM, negotiations will be accomplished by mail. In these instances, the Acquisition Agent:

A. Adapts the procedures in Section 6-2 for initial preparation.

B. Sends to the owner by certified mail, with return receipt requested:

1. The original and one copy of the offer letter (see Figure 6-2.2H), with the copy marked requesting signature and return.

2. A copy of the Right of Way Plan marked to definitely show the area to be acquired and any remainder(s).

3. "Transportation Property Needs and You" booklet.

4. Relocation Assistance Program booklet, if appropriate.

5. Such additional relocation assistance material as may be deemed necessary upon consultation with the Region Relocation Assistance Supervisor.

6. Original and one copy of all instruments necessary for the transaction.

7. Real Property Voucher(s) (DOT Form 262-039).

8. Special instruction on what to sign, where to sign, how to sign requirements for acknowledgments, and instructions for return mailing.

9. Self-addressed, stamped envelope.

C. Upon return of the certified mail receipt, telephones the owners to discuss the state's offer and to obtain the owner's reaction.

D. Upon receipt of the executed instruments, signed voucher(s), and receipted offer, sends a "thank you" letter and completes the Right of Way Acquisition Transmittal (DOT Form 262-048) as specified in Section 6-8.

E. If the owners do not respond within two weeks, sends by certified mail (return receipt requested) a "follow-up" letter or contacts by telephone to follow-up.

F. If the out-of-state owners do not respond within two weeks to the "follow-up" letter, sends by certified mail (return receipt requested) an urgent letter. If the owners are in-state, makes personal contact.

G. If the owners reject the state's offer or do not respond within two weeks to the "urgent" letter, sends by certified mail (return receipt requested) a "condemnation notice" similar to that in Figure 6-3.4G, and files the Negotiator's Report (Form RES-320) (see Sections 6-10 and 6-11).

6-3.4.1 First Contact (Offer) by Mail

The Region RESM may designate projects in which the first contact (offer) with property owners may be accomplished by mail. In these instances, the acquisition agent:

A. Adapts the procedures in Section 6-2 for initial preparation.

B. Sends to the owner by certified mail, with return receipt requested:

1. The original and one copy of the offer letter (see Figure 6-2.2H), with the copy marked requesting signature and return.
2. A copy of the Right of Way Plan marked to definitely show the area to be acquired and any remainder(s).
3. "Transportation Property Needs and You" booklet.
4. Relocation Assistance Program booklet, if appropriate.
5. Such additional relocation assistance material as may be deemed necessary upon consultation with the Region Relocation Assistance Supervisor.
6. A cover letter with brief project description and an explanation of the acquisition procedure and the agent's business card..
7. Self-addressed, stamped envelope.

C. After a reasonable time for review by the owners, telephones to discuss the state's offer, and sets up a meeting.

D. Continues with normal negotiation process.

(Use Region Letterhead)

(Name and Address of Owner)
_____
_____
_____

Re: SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

Dear _____:

In the process of acquiring property, honest differences of opinion as to Market Value occasionally arise. When this happens, the material is submitted to the courts for a fair and impartial determination. This is done to assure that both your rights as an individual property owner and the rights of all the taxpayers of the state are equally protected.

As we have apparently reached the point where an honest difference of opinion does exist, we are turning this matter over to the Attorney General so that the question of the Market Value of your property may be determined impartially by the court.

We regret that we have been unable to reach a settlement with you. However, since there will be several days of preparation time required prior to submitting your parcel to the Attorney General, we again offer you the amount of $_____* as was previously offered you by our letter of _____*. Should you reconsider and decide to accept this offer prior to its automatic withdrawal by referral of this parcel to the Attorney General, please communicate directly with our Assistant Director, Real Estate Services, at the following address:

Washington State Department of Transportation
Assistant Director
Real Estate Services Office
Transportation Building
Olympia, WA 98504

Sincerely,

(name)
Region Administrator

By:
Acquisition Agent
Telephone:

**Insert dollar amount and date of latest offer letter.*

Condemnation Notice
Figure 6-3.4G

6-4 Inducements

There are a number of inducements available which may assist in reaching a settlement with the property owners.

6-4.1 Expenses Incidental to Selling to the State

6-4.1.1 Statutory Evaluation Allowance

By statute (RCW 8.25.020), parties having interests in a parcel may be reimbursed up to $750 for "expenditures actually and reasonably incurred" in evaluating the state's offer. The Acquisition Agent uses the following guidelines and procedures in making the claim for the statutory evaluation allowance:

A. In making the offer to the owners, the Acquisition Agent explains the statutory evaluation allowance. The Agent suggests to the owners that, if they choose to have an evaluation made, it should be made by knowledgeable personnel. Do not suggest that they have their own appraisal made. An evaluation of the state's offer may take many forms — an appraisal is only one of those forms.

B. Only one allowance may be paid per transaction. This rule applies in the following situations as well as to the standard single parcel-single owner transaction:

   1. More than one offer is made on a parcel.
   2. Two or more tracts which have separate parcel numbers but are combined for appraisal and acquisition purposes due to common ownership.
   3. More than one party in interest elects to have an evaluation made.

C. The Acquisition Agent reviews the documentation accompanying the claim for payment and prepares a Real Property Voucher not to exceed $750 for those items which qualify. The documentation for the claim must accompany the signed voucher.

D. The statutory evaluation allowance is normally paid at the time of final settlement unless unusual delays in settlement are experienced due to department activities (e.g., lack of funding, etc.).

6-4.1.2 Allowance for Other Expenses

Certain "incidental expenses" incurred in transferring property to the state are payable by the department.

A. Payable Expenses

   1. Processing Expenses — The mortgagee's reasonable fees for processing documents and analyzing the account, recording fees, owner's legal fees, etc., required to pass good title.
   2. Prepayment Penalties — Loan prepayment penalties charged by a mortgagee.

      Note: There are no prepayment penalties in the case of FHA insured loans.

   3. Reconveyance Fee — A Trustee is entitled to a fee for execution of a reconveyance (see Chapter 8).
   4. Other charges incidental to the conveyance of clear title by the owner such as attorney's fees in connection with the appointment of a guardian, administrator, or executor.

B. Nonpayable Expenses

1. Prepayment penalties when they are incurred by the voluntary act of the grantor (i.e., when the grantor elects to prepay all or part of a loan).
2. Any other expense incurred solely for the convenience of the grantor (e.g., general attorney's fees related to advice rather than to perfecting title).

C. Procedures

The Acquisition Agent:

1. Obtains a bill or letter from the charging agency, person, or company for any fee and/ or prepayment penalties.
2. Questions the lender and verifies the necessity for a processing charge or prepayment penalty. Telephones the Assistant Director, Title and Condemnation Program, for approval of any processing charges in excess of $500. Approvals received are noted by the Acquisition Agent in the parcel's Diary of Right of Way Activities (Form RES-301).
3. Includes the payable expenses ("A" above) in the "For All Other Items" section of the Real Property Voucher (DOT Form 262-039). If the charging agency, person, or company is joining on the voucher, these expenses may be shown on the principal Real Property Voucher. Otherwise, they may be separately vouchered. The Trustee's reconveyance fee is separately vouchered at the time of delivery of the reconveyance.

   Note: Prepaid Taxes — Although not truly an expense incidental to selling to the state, prepaid taxes allocable to any period after the state's acquisition may be claimed from and refunded by the County Treasurer (see Chapter 8).

6-4.2 Relocation Assistance Program

If our acquisition requires the moving of persons or personal property from the parcel, the Acquisition Agent completes a Relocation Eligibility Report (DOT Form 264-003). Upon obtaining proper signatures on the Relocation Eligibility Report, immediately forwards the original to the Assistant Director, Relocation Assistance.

If requested, the Acquisition Agent can Deliver a Relocation Assistance Program booklet and a General Notice of Relocation Rights (see Chapter 13 for Example) to the property owner.

The Acquisition Agent should only try answer relocation questions posed by property owners based on their knowledge and experience of the relocation assistance program. If the agent is unfamiliar with relocation, it is a better idea to offer to have a Relocation Agent contact them.

If a decision is made by the department to withdraw an offer to purchase from a property owner, and relocation is involved, the acquisition should forward a copy of the letter withdrawing the offer to the relocation department (see Chapter 12-3 of the Right of Way Manual for relocation procedures).

More complete information and instruction will be found in Chapter 12 of this manual.

6-4.3 Trades and Exchanges

6-4.3.3 General

Sometimes it is possible to arrange a settlement by trading or exchanging unneeded lands for needed lands. The lands traded may be either full or partial compensation for the lands acquired.

6-4.3.2 Rules

A. There are three sources of land available for trades or exchanges:

1. Land shown on the approved right of way plans as "excess right of way," provided such land has been entered into the Real Property Inventory in the computer system (see Chapter 11) and has been declared surplus.

   Note: It may be necessary to delay the actual transfer of this type of land until after the opening of the new facility.

2. Any state-owned, department-controlled land in the vicinity of the project which is shown on the Real Property Inventory as "surplus" (see Chapter 11).

3. Any "remainder" (see Section 6-4.6) acquired on a specific project may be used as trading stock on that same project, provided that:

   a. The "remainder" is entered into the Real Property Inventory (see Chapter 11).

   b. The state has acquired a valid title to the "remainder."

   c. The property has been declared surplus in Headquarters and a value for the property has been established by the Property Management Section.

B. In addition to the formal instruments, documents, etc., the acquisition transmittal includes an Exchange Agreement (Form RES-322) completed as instructed in Chapter 9 with particular attention to the inclusion of the inventory control number.

C. In all trades or exchanges involving the payment of money by the state, a Real Property Voucher (DOT Form 262-039) is prepared as described in Chapter 10.

D. Full credit for the value of traded or exchanged surplus lands, as determined by a current Determination of Value (DV) (Form RES-214), must be realized against the costs of acquisition of the needed lands, or the difference justified through administrative settlement procedures as set forth in Section 6-9.

6-4.3.3 Procedures

A. When the approved Right of Way Plans are available, the Region RESM:

1. Adds all "excess right of way" and "remainders" to the Real Property Inventory.

2. Initiates procedures to have all "excess right of way" and available "excess" lands in the vicinity of the project evaluated and declared "surplus" (see Chapter 11).

3. Notifies the Acquisition Supervisor of all "surplus" land and "remainders" that are available for trades or exchanges.

B. The Acquisition Agent:

1. Confers with the Acquisition Supervisor as to which surplus land and remainders are available as inducements for a particular parcel. Obtains copy of Surplus Property Report showing disposal approval.

2. Conducts negotiations in the normal manner but is prepared to offer a trade or exchange of surplus land at full value as shown by the current Surplus Property Report approved in Headquarters.

3. Prepares the Real Property Voucher as described in Chapter 10 when the trade/exchange represents only partial consideration.

4. Obtains the grantor's execution of the Exchange Agreement.
5. Prepares the Right of Way Acquisition Transmittal (see Section 6-8) with care to include the Exchange Agreement as specified in this section, and the Surplus Property Report.
6. If less than full DV credit was obtained in the trade or exchange, complies with Section 6-9 and includes approved administrative settlement documents with the transmitted acquisition package.

6-4.4 Construction Items

A. WSDOT may mitigate damages to a "remainder" by the inclusion of special construction items in the construction contract. An item may be part or all of the consideration to be paid for a given parcel, but its cost may not exceed the estimated reduction in damages to the "remainder" of that parcel. Some types of construction items may affect more than one parcel, in which case the cost of the item may not exceed the sum of the reductions in damages to the remainders of the parcels so affected. The cost of these construction items is eligible for federal participation when FHWA is participating in the costs of right of way acquisition.

B. All construction items require the submission of a "Memo: Construction Item" (Figure 6-4.4B) approved by the Project Engineer. When necessary to enter upon lands not acquired to perform the obligation, a further clause granting a right of entry to the state for that purpose is also required. The "Memo: Construction Item" quotes verbatim the clause from the deed describing the construction item. The right of entry clause does not appear in the "Memo: Construction Item." For typical clauses see Chapter 9. The memo is prepared in sufficient copies to permit enclosure of the original and two copies in the transaction package.

(Use Memorandum Format)

TO: Region Administrator

FROM: Region Real Estate Services Manager/Acquisition Agent

SUBJECT: Construction Item
SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

In the transaction with _____, Parcel No. _____, on the above-referenced project, the following special consideration appears in the (deed/instrument):

(***Note:*** The above clause is written as shown even though the instrument or deed has not yet been finalized.)

(Here is quoted verbatim the clause from the deed/instrument describing the construction item.)

This item is required for the following reason(s):

(State why the item has been offered to the grantor. Simple items are given simple explanations; e.g., "Road approach in accordance with *Right of Way Plan Road Approach Schedule*." A revision of the *Access Plan* requires significant explanation of reasons.)

Recommended:

Initials _____ Date _____

Accepted and Approved:

Date _____

State of Washington
Department of Transportation
Region Administrator

Memo: Construction Item
Figure 6-4.4B

6-4.4.1 Construction Items Already Included in the Right of Way Plan

A. Input by Real Estate Services personnel as a result of project inspection during the development stage (see Chapter 1) will often lead to the appearance of construction items on the approved right of way plans (e.g., a road approach shown on the Right of Way Plan or Road Approach Schedule). It may be assumed that the economics of such construction items have been considered and approved, and that the appraiser(s) has based valuation of the "remainder"(s) on the premise that such construction items will be built.

B. Procedures

1. The Acquisition Agent:

   a. May indicate to the owner as inducement for the acceptance of the state's offer that such construction items are provided for in the plan and will be constructed.

   b. If the owner concurs in the proposed construction, prepares the "Memo: Construction Item," if appropriate (Figure 6-4.4), quoting verbatim the instrument clause describing the special construction item, but not including the right of entry clause, if any. (The "Memo: Construction Item" is required even though the construction item appears on the Right of Way Plan.) Also see Section 6-4.4.4 Road Approaches.

   c. Hand carries the memo to the Project Engineer for approval (initials and date).

   d. Submits the memo approved by the Project Engineer to the Region RESM.

2. The Region RESM secures the approval of the Region Administrator on the memo and returns same to the Acquisition Agent.

3. The Acquisition Agent:

   a. Proceeds with the negotiations, but delays securing signatures until advised of the approval of the Region Administrator.

   b. Includes the original and two copies of the "Memo: Construction Item" in the transaction package.

6-4.4.2 Special Construction Items

A. Construction items not appearing on the approved Right of Way Plan may be suggested by the Appraiser, the Acquisition Agent, and/or the owner as damage mitigating, beneficial, or desirable. Regardless of the source, the economic as well as physical feasibility of any construction item must be first determined.

B. A thorough examination of the geography and topography of the parcel is required to determine physical feasibility. This should be made by the Project Engineer/Access Management Personnel in company with the Appraiser/Acquisition Agent and land owner, as appropriate.

C. Assuming a finding of physical feasibility and initial approval by the Project Engineer/Access Management Personnel, the matter of economic feasibility becomes an appraisal problem. The matter will be referred back to the Appraiser through the Region RESM for appraisal revision. If the proposed construction item appears economically feasible, i.e., the cost of construction is less than the amount of damages being offset by the construction, the Acquisition Agent drafts the "Memo: Construction Item" and any other necessary documentation and seeks the Region Administrator approval as in Section 6-4.4.1 above. If the cost of construction exceeds the potential reduction in damages, the matter still may be considered for approval as an administrative settlement under Section 6-9.

D. Other procedural steps follow as in Section 6-4.4.1 above, unless the proposed construction item requires a change in the Access Plan. In such case, see Section 6-4.4.3, below.

6-4.4.3 Construction Items Requiring Revisions to the Access Plans

The Acquisition Agent may discover that a proposed construction item requires a change in the Access Plan in order to be feasible. Such changes require the approvals of the Region Administrator, State Design Engineer, State Access and Hearings Engineer, and the FHWA (on federal aid projects only). The Acquisition Agent processes construction items requiring revisions to Access Plans as described in Section 6-4.4.1 and 6-4.4.2 with the following exceptions:

A. Requests are made only in rare instances and where the importance of the change is thoroughly explained in the body of the memo (Figure 6-4.4B).

B. In the memo (Figure 6-4.4B), the words "Subject to approval by the Design Engineer" precede the text explaining the construction item.

C. A copy of the memo is provided to the Region Administrator for his use in obtaining (through the Design Engineer) the necessary approvals.

D. If appropriate, the region will seek advice from the State Access and Design Engineer.

6-4.4.4 Road Approaches

Road approaches on non-limited access highways are governed by RCW 47.50. Specific formulas for establishing road approaches have been determined.

A. All new or altered road approaches must be documented by permit. All changes to existing access points must be approved by the Region Administrator.

B. Construction memos may be prepared but are not required for Headquarters processing.

6-4.5 Salvage of Improvements

A. If improvements are being acquired as a part of the state's acquisition, the Acquisition Agent, prior to contacting the owners:

1. Prepares a Fixtures and Improvements Agreement (Form RES-335).
2. If the region has determined that project scheduling and other factors will allow for salvage of improvements.
   a. Obtain written approval from the project Engineer and the Region Real Estate Services Manager For all tenant occupied improvements to be salvaged.
   b. Obtains a Salvage Appraisal Report (DOT Form 263-003) from Region Property Management Section.
   c. Determines from the Region Property Management Section the amount required as a Performance Bond. This amount shall be sufficient to cover the costs to perform the necessary cleanup if the owner does not perform as promised.

B. If the owners desires to salvage any or all improvements and it will not adversely impact construction, the Acquisition Agent may offer the same at the amount of the salvage value given on the Salvage Appraisal Report, plus the required Performance Bond. See Chapter 10 for preparation of the Real Property Voucher(s).

C. See Chapter 11 for more complete information and instructions.

6-4.6 Remainders

The following sections cover acquisition involving two categories of remainders: "uneconomic remnants" and "excess acquisition."

6-4.6.1 Uneconomic Remnants

A. If the Determination of Value (DV) includes a statement by the reviewer that a remainder is an uneconomic remnant, the department then offers to purchase such remnant at its damaged value by adding "Clause A" to the offer letter (see Figure 6-2.2H). Although the department is required to offer to purchase uneconomic remnants, the owner is not required to sell them. If the remnant shows evidence of contamination any offer to buy should be contingent on the property being acquired in a clean condition.

B. If the owner rejects the state's purchase offer and the Acquisition Agent files the Negotiator's Report as specified in Sections 6-10 or 6-11, the uneconomic remnant is normally not included in the condemnation action except by agreement between the assistant attorney general and the property owner.

6-4.6.2 Excess Acquisition

6-4.6.2.1 Rules

A. An excess acquisition is the acquisition of a remainder or remnant which has not been identified in the DV as being "uneconomic."

B. The department tries to avoid acquiring excess property, but may do so when the excess is to be used for "trading stock" on the same project, or for a pit or borrow site not yet mapped, or when appraisal considerations dictate that such excess acquisition is in the best public interest.

C. If the state has no interest in acquiring a remainder for the purposes set forth in B, above, and the owner is adamant in his refusal to keep the remainder, the Acquisition Agent may make an excess acquisition by following the appropriate procedures:

6-4.6.2.2 Procedures

A. If the "after value" of the remainder, as shown on the DV, does not exceed $10,000, the Acquisition Agent prepares a memo (see Figure 6-4.6.2.2A) requesting the approval of the Region RESM. Upon receipt of the approved memo, the Acquisition Agent proceeds with the transaction in the normal manner.

B. If the "after value" of the remainder, as shown on the DV, exceeds $10,000, the Acquisition Agent also includes a signature line for the approval of the Regional Administrator.

C. The Acquisition Agent includes any memos authorizing the excess acquisition with the Right of Way Acquisition Transmittal.

D. If the owner rejects the state's offer and the Acquisition Agent files the Negotiator's Report (Form RES-320) as described in Sections 6-10 or 6-11, the Negotiator's Report specifies only the required right of way.

6-4.7 Rent Free Occupancy

Rent free occupancy of improved properties may be offered as an inducement to settlement **only with prior written approval from the Director, Real Estate Services**.

6-4.8 Protective Rent

6-4.8.1 General

If a tenant vacates property before the department acquires possession, then it may be appropriate for the department to pay protective rent to prevent the property from being rented to another tenant, resulting in another displacement or in a property owner claiming loss of rent.

6-4.8.2 Rules

A. The payment of protective rent is to be utilized at the discretion of the Region Real Estate Services Manager (RESM) based on the following criteria:

1. Terms and rental rate for the current leasehold interest held by the displaced person.
2. Lead-time for business and tenants to find and secure replacement sites.
3. Availability of replacement sites suitable to the displaced person.
4. Potential of the owner to re-rent the subject site.
5. Facilitate negotiations and goodwill with the property owner.
6. The acquisition schedule (ad date).

6-4.8.3 Procedures

A. The RESM must analyze the cost effectiveness of entering into protective rent. Consideration should be given to time and cost of rent versus the payment to the displaced person(s).

For example, if the rent is $100.00 per month on a 10' by 10' storage unit and the proposed protective rent period is 6 months, then it would not be cost effective to enter into protective rent because the personal property only benefit is $300.00 (for 10' by 10' unit).

B. The RESM concludes that the protective rent is justified or not justified and instructs the Region Acquisition Supervisor and Region Relocation Supervisor.

C. If protective rent is justified, then the following procedures apply;

1. The Acquisition Agent and the Relocation Agent coordinate to establish timelines regarding the vacation of the premises by the displaced person(s) and the date to commence protective rent.
2. The Acquisition Agent request that the owner (landlord) provide WSDOT with a lease/rental agreement.
3. The Region will submit the lease/rental agreement to the Assistant Director, Title and Condemnation program for review and approval.
4. If the owner (landlord) does not provide a lease/rental agreement, then the appropriate WSDOT acquisition lease for residential or commercial site will be utilized.
5. The Region will establish a rental rate and provide documentation justifying said rate. The rental rate for the property should reflect an appropriate reduction in services no longer required by the owner.
6. The following are suggested methods of payment available:

Agreement – The Region executes three original instruments and establishes a 0P Agreement following procedures outlined in Section 3.16 of the Agreements Manual (M22-99).

Real Property Vouchers – The Region executes Real Property Vouchers to make monthly, quarterly, or yearly payments based on the terms of the lease.

Administrative Settlement – The Region and the property owner reach an agreement on the amount of protective rent to be paid. This amount is justified as per Chapter 6-9 and is paid in the primary real property voucher upon final settlement with the property owner.

Note: Protective rent should continue until the department has obtained possession of the property (e.g. by Deed or Possession and Use).

7. Upon vacation of the premises by the current tenant, the Acquisition Agent will obtain verification that the existing lease has been terminated and that all deposits have been returned to the tenant.
8. The region will submit the lease/rental agreement to the Director, Real Estate Services following the procedure set forth in Chapter 6-8.

6-5 Special Cases

6-5.1 Headquarters Acquisitions

A. Headquarters acquisition section normally handles the following transactions:

1. Land owned by the United States (including property rights held by the Bonneville Power Administration, but not including lands of the Forest Service or the Bureau of Indian Affairs).
2. Lands owned by the State of Washington.
3. Lands owned by major railroads.
4. Acquisitions for Equipment and Facilities.
5. Acquisitions for the Marine Division.

B. As soon as a region project has been approved for acquisition, the Region RESM identifies any parcels falling into categories 1, 2, or 3 in A above. Such parcels are referred in writing to the Headquarters acquisition section. Each referral is to include the following:

1. Title report and all supplemental reports.
2. Identification of needed land or interest.
3. Negotiator's copy of approved appraisals and Determinations of Value.
4. Any other pertinent information: federal aid number, right of way number, control section, parcel number, negotiation cut-off date, ad date, etc.
5. Copy of cross sections and construction plan (for railroad acquisitions only).

(Use Memorandum Format)

TO: Regional Administrator

FROM: Region Real Estate Services Manager

SUBJECT: Request to Purchase Excess Lands
SR _____
RW _____, C.S. _____,
FA No. _____
Right of Way Plan Sheet _____ of _____ Sheets
Parcel Number _____

The owners of the above-referenced parcel have indicated a strong desire to have the state purchase the remainder of the parcel which lies outside the required right of way. This remainder has been given an "after value" of $_____ on the Reviewing Appraiser's Determination of Value Number _____ prepared by _____ on _____, 20___.

For the following reasons, we recommend that authorization to acquire this remainder as an excess acquisition be granted:

(Here state the justification for the excess acquisition.)

Recommended:

_____
Right of Way Agent Date

Recommended:

_____
Region Real Estate Services Manager Date

Approved:

_____
Director, Real Estate Services Date

Memo: Request to Purchase Excess Lands
Figure 6-4.6.2.2A

6-5.2 Corporations

A corporation is a legal entity under state law and has many of the capacities of a natural person. Many of the procedures used in dealing with individuals may be adapted for use in dealing with corporations; however, several special procedures are given below. Also see Chapter 8 for procedures pertaining to acquisitions from public and private utilities.

6-5.2.1 Acquisition Procedures

A. The Region RESM:

1. Checks the title report and the records of the County Auditor or Secretary of State for:

   a. Exact corporate name.

   b. Payment of license fees.

      Note: Nonprofit, charitable, religious, educational, and fraternal organizations are exempt from paying annual license fees, but must file an Annual Report of Officers. The Secretary of State's office can verify the corporation is in good standing.

   c. Deficiencies or disabilities in the corporate authority; e.g., a foreign corporation not authorized to do business in this state.

   d. Dissolved, defunct, or suspended corporations.

2. If any problems are discovered, attaches a memo to the title report which indicates to the Acquisition Agent the steps that are to be taken to resolve the problem.

B. The Acquisition Agent:

1. Examines the articles of incorporation and the bylaws of the corporation to determine who has the authority to execute instruments for the corporation.

2. Prepares a memo to the file abstracting the following information from the articles and bylaws of the corporation:

   a. The date of incorporation.

   b. The exact language (if any) governing the sale of real estate.

   c. Any other information pertinent to the sale.

3. Prepares a resolution (Figure 6-5.2.1B3) and submits it to the corporate Board of Directors when:

   a. The corporation is not in the business of buying and selling real estate, or

   b. The sale is for a very large sum in proportion to the corporation's assets, or

   c. The sale involves the property on which the home office of the corporation is located.

4. Upon execution of the Board of Directors resolution, or when a resolution is not appropriate, presents the proposed instrument to the corporate officers for execution (see 1, above) and affixing of the corporate seal (if there is one). Uses the corporate acknowledgment form as prescribed in Chapter 9.

6-5.3 Partnerships

A. A partnership is an association of two or more persons to carry on a business for profit. The firm name adopted may or may not reveal the name of any partner and may contain the word "company" and so disguise the fact of partnership. Partnerships are of two kinds: general and limited. The basic difference is that a limited partnership has "limited partners" whose rights, duties, and liabilities are limited by law. This fact is of little importance in the acquisition of real property. Existence of a partnership may be disclosed in the title report, but an Acquisition Agent may be faced with acquisition from a partnership without prior warning.

B. When required to purchase real property from a small business or from an individual operating a small business, the Acquisition Agent should be alert to the possibility that a partnership may be involved and ask pertinent questions to establish or eliminate that fact. If a partnership is involved, the Acquisition Agent's first duty is to secure a copy of the partnership agreement and examine same to determine any provisions in regard to the conveyance of real property.

C. Procedures

Upon determining that a partnership does exist, the Acquisition Agent:

1. Secures a copy of the partnership agreement and includes it in the acquisition package.
2. Has the authorized partners execute the instruments to the state (see Chapter 9).
3. If a copy of the partnership agreement cannot be obtained, or if same is silent with regard to authority to convey real property, has all partners and their spouses execute the instruments to the state.

D. The Acquisition Agent is encouraged to seek assistance from the Region Title Examiner if there are any questions about how to prepare the deed and voucher for a partnership.

6-5.3.1 Limited Liability Companies

A Limited Liability Company is a business entity that has the income tax benefits of a partnership and the limited liability of a corporation. It is composed of at least two members who must file a Certificate of Formation with the Secretary of State and prepare a Limited Liability Agreement. The Agreement established the authority of the "members" or "managers" to act on behalf of the company. Title to property vests in the name of the company and the company name must be followed by "Limited Liability Company," "Limited Liability Co.," or "L.L.C." To clear title, all members must sign the conveyance document unless the Limited Liability Agreement grants authority to convey or mortgage to certain members or managers.

Resolution by the Board of Directors of the _____ company, a _____ (state of incorporation) _____ corporation.

In the matter of State Route _____.

WHEREAS, the _____ company is the record owner of the following described land:

: and

WHEREAS, in the improvement of State Route _____, by the Washington State Department of Transportation, it is necessary and advisable for the State of Washington to acquire title to the following described portion of said lands for a right of way for said highway:

: and

WHEREAS, after due consideration by the Board of Directors of the _____ company, it appears to said Board that it will be in the best interests of both the company and the State of Washington that the company convey said lands to the state of Washington by Warranty Deed for a consideration of:

NOW THEREFORE, be it hereby resolved by the Board of Directors of the _____ company, that the _____ company through its Corporate Officers, execute, and deliver said deed to the Washington State Department of Transportation.

Done at a (regular/special) meeting of the Board of Directors of the _____ company this _____ day of _____, 20___.

(Corporate Seal)

_____
Chairman

_____
Director

_____
Director

Attest:_____

Secretary of the _____ Company

*(**Note:** At least a majority of the directors must sign.)*

Typical Corporate Board of Directors Resolution
Figure 6-5.2.1B3

6-5.4 Political Subdivisions of the State of Washington

Examples of political subdivisions of the state of Washington are counties, cities, towns, school districts, irrigation districts, etc. Some political subdivisions are municipal corporations (e.g., cities and school districts). Irrigation districts are not municipal corporations. In preparing instruments, etc., the Acquisition Agent should use the terminology given in the title report.

6-5.4.1 Counties

6-5.4.1.1 General Procedures

In the state of Washington, county governments may be either on a commissioner system or on a council-executive system. In either case, the Acquisition Agent makes contact through the appropriate county office. The exact process by which the county transfers real property to the state is controlled by the county's charter; however, either of the following procedures will apply:

A. In a "commissioner system" county, the Acquisition Agent:

1. Prepares the usual data package for making the state's offer (e.g., maps, firm offer letter, relocation kit, etc.)
2. Makes the state's offer to the County Engineer's representative or other appropriate county official.

   Note: Procedures relating to compensation do not apply to acquisition of road right of way.
3. Prepares a resolution (see Figure 6-5.4.1.1A3) authorizing execution of the deed. Upon approval from the County Engineer's office, the County Commissioners pass and execute this resolution. The Acquisition Agent includes a copy of the executed resolution in the transaction package.
4. Prepares the Quitclaim Deed. All three County Commissioners should sign the deed. However, the deed is legal when signed by two of them. Use the County Commissioners form of acknowledgment (see Figure 9-15).
5. Prepares the Real Property Voucher. The voucher is executed by the Clerk of the Board or by any other official who has the power to bill the county's debtors.

B. In a "council-executive system" county, the Acquisition Agent proceeds as in Section 6-5.4.1.1, except that:

1. The resolution (Figure 6-5.4.1.1A3) is passed by the County Council, is executed by the Chairman of the Council, and authorizes the County Executive to execute the deed.
2. The deed is executed by the County Executive or designee and the County Commissioners form of acknowledgment is adapted to fit.

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS IN THE COUNTY OF _____, STATE OF WASHINGTON.

In the matter of State Route _____.

WHEREAS, the County of _____ is the record owner of the following described lands:

WHEREAS, in the improvement of State Route _____, by the Washington State Department of Transportation, it is necessary and advisable for the State of Washington to acquire title to the following described portion of said lands for a right of way for said highway:

(description)

WHEREAS, after due consideration by the Board of County Commissioners of the County of _____, it appears to the said Board that it will be for the best interest of both the County of _____, and the State of Washington that the County of _____ convey said lands to the State of Washington by Quitclaim Deed for a consideration of _____;

NOW THEREFORE, be it hereby resolved by the Board of County Commissioners of the County of _____ _____, State of Washington, that the County of _____, in accordance with RCW 47.12.040 (RCW 84.64.320 for tax title lands) and through its Board of County Commissioners, execute and deliver said deed to the Washington State Department of Transportation.

Done at a (regular/special) meeting of the Board of County Commissioners of _____ County this _____ _____ day of _____, 20___.

(Seal)

_____
Chairman

_____
Commissioner (omitted if council type of county government)

Attest:_____
County Auditor and Clerk of the Board of County Commissioners

_____
Commissioner (omitted if council type of county government)

*(**Note:** This format may be adapted for a county using the "council-executive" system by substituting "County Council" for "Board of County Commissioners" except in the authorization for execution where the substitution would be "County Executive.")*

Typical County Commissioner's Resolution
Figure 6-5.4.1.1A3

6-5.4.1.2 County Road Located Within Highway Right of Way

Using the procedures outlined in Section 6-5.4.1.1 and Chapter 9, the Region RESM secures a Quitclaim Deed from the county for all county rights of way that lie within the right of way limits of each new state highway project. This action is postponed until the transactions with all other owners are substantially completed in order to avoid the necessity for supplemental instruments due to plan revisions.

It is not necessary to recite the area of the lands conveyed.

6-5.4.1.3 Tax Title Lands

Using the procedures outlined in Section 6-5.4.1.1, the Region RESM (or his designee) secures a Quitclaim Deed from the county for all tax title lands (using a parcel by parcel form of description) that lie within the right of way limits of each new state highway project. RCW 84.64.320 provides that the consideration be for not less than the principal amount of the unpaid taxes. Therefore, contact the County Treasurer to determine the exact amount to be paid. The Deed will be prepared by the County Treasurer as provided in RCW 84.64.15. Refer unusual title problems to the Assistant Director, Title and Condemnation Program, for decision on a case-by-case basis; e.g., if the prior owner of tax title land was either a minor or an insane person, that person has three years from the issuance of the deed to reclaim the property (RCW 84.64.070). Any portions of tax title lands acquired that lie outside of the right of way limits will be excess lands and disposed of under the procedures governing such.

6-5.4.2 Cities and Towns

6-5.4.2.1 General Procedures

In the state of Washington, city and town governments may be either on a “commissioner system,” “council-mayor system,” or on a “council-manager system.” In any case, the Acquisition Agent makes contact through the City Engineer’s office. Where right of way is required from properties owned by a city or town (other than streets), the procedures outlined in Section 6-5.4.1.1 are adapted for use with such cities and towns. In any case, the transmittal includes: a copy of the passed and executed resolution, the executed deed, and the executed Real Property Voucher.

6-5.4.2.2 City Streets Located Within Highway Right of Way

A. Non-Access Controlled Highways — When a street, etc., in an incorporated city or town is placed on the route of a non-access controlled state highway (pursuant to RCW 47.24.020), title to such street, etc., remains vested in the city or town. If the state elects to improve its highway by the widening of such a street, the additional right of way may be acquired either by the city or town or by the state, and the costs of acquisition split, as may be mutually agreed upon. By statute, the title to such additional widths vests in the city or town. If the agreement is for the state to acquire, the Acquisition Agent proceeds to do so in the normal manner (Section 6-2).

B. Limited Access Facilities — The title to the right of way for limited access facilities vests in the state. No documents are necessary to transfer ownership of a city street to the state when it is within the right of way limits of a limited access highway.

6-5.4.3 Other Political Subdivisions

When acquiring property from any other political subdivision the Acquisition Agent adapts the procedures outlined in Section 6-5 as necessary for the political subdivision involved. Procedures for acquisitions from irrigation districts are covered in Chapter 8.

6-5.5 State Agencies

6-5.5.1 Department of Natural Resources

6-5.5.1.1 General

Certain public lands (such as school trust lands, escheat lands, forest board lands, tide and shore lands, and bed and shore lands) are managed by the Department of Natural Resources (DNR). The acquisition of rights of way over and across said lands is controlled by provisions of one of the following portions of the Revised Code of Washington:

R.C.W. 47.12.023 for all DNR-controlled lands other than rights of way over and across the beds of navigable waters and/or harbor areas.

R.C.W. 47.12.026 for rights of way over and across beds of navigable waters and/or harbor areas.

6-5.5.1.2 Procedures

A. The Region Real Estate Services:

1. When ready to appraise DNR-held property, contacts their area office to offer DNR personnel the opportunity to accompany the WSDOT appraiser.

   Note: An appraisal is not required if rights of way needed are over and across beds of navigable waters or harbor areas as these rights are transferred by DNR without charge.

   An appraisal is made of the ownership as if owned by a private individual.

2. Forwards appraisal, when completed, to the Appraisal Program Manager.
3. Requests Headquarters acquisition of DNR lands by letter transmitting the following acquisition package to the Assistant Director, Special Acquisitions:
   a. Title reports and all supplemental reports (including DNR title reports).
   b. Federal aid number, right of way number, control system number, parcel number, ad. date, etc.
   c. Acquisition Agent's copy of appraisal with Determination of Value (DV).
   d. Two color-coded copies of approved Right of Way Plan showing area to be acquired.
4. On request from Special Acquisition Manager clears interests (including access rights and relocation assistance <u>entitlements</u>, if appropriate) of lessees and/or contract purchasers.

B. The Assistant Director Appraisal and Appraisal Review:

1. Upon receipt of appraisal report, causes review thereof to be made.
2. Transmits appraisal and DV to Region RESM.

C. The Assistant Director Special Acquisitions:

1. Upon receipt of the acquisition package from the Region RESM, makes a request to Headquarters Plans section for the preparation of a land plat.
2. Upon receipt of land plat from the Plans Section, files the following items with DNR as the WSDOT's "Notice of Intent to Acquire" (RCW 47.12.023):

a. Statement that the lands, or interest in lands, is required for right of way or other highway purposes.

b. Statement of just compensation to be paid for the property, based upon the department's approved appraisal, or

c. Statement that, pursuant to RCW 47.12.026(1) no compensation is being offered.

d. Original mylar of land plat.

e. Two paper copies of land plat, one with acknowledgment stamp.

f. Copy of Right of Way Plan with the area to be acquired colored in.

g. Request for transfer of jurisdiction.

h. Real Property Voucher (DOT Form 262-039) if appropriate. (If time is critical, obtain warrant with Voucher Distribution (DOT Form 134-128) and send warrant with request package.)

i. Request for names and addresses of all lessees and/or contract purchases having an interest in the required lands.

3. When names and addresses of lessees and/or contract purchasers (if any) are received from DNR, forwards this information to region so that these interests (including access rights and relocation assistance entitlements, if applicable) can be cleared.

6-5.5.2 Other State Agencies

6-5.5.2.1 General

Negotiations are conducted between the Special Acquisition Section and a representative of the particular agency. Normal acquisition procedures are followed in that WSDOT offers to pay market value as reported on the Determination of Value (Form RES-214). The Region RESM clears the interest of lessees and/or contract purchasers. Normal relocation assistance procedures are followed and relocation assistance entitlements are available as may be required for displacements.

6-5.5.2.2 Acceptance and Closing

A. When agreement is reached, the Special Acquisition Section submits a Real Property Voucher (DOT Form 262-039) to the agency representative for signature and when required prepares the necessary instruments (usually a "Release and Transfer of Jurisdiction," Figure 6-5.5.2.2A, Quit Claim Deed or easement).

B. The signed voucher is returned together with the signed instrument transferring control of the property to WSDOT. The file is processed for payment following normal procedures (see Section 6-8) and documentation is placed in the right of way parcel file. The Special Acquisition Section verifies that the Region has cleared the interests of all lessees and/or contract purchasers and transmits a copy of the signed instrument(s) to the region.

6-5.6 Federal Agencies

6-5.6.1 Forest Service Lands

A. The Region Administrator coordinates engineering activities with the U.S. Forest Service, Department of Agriculture, from the reconnaissance stage on through final approval of the highway plans. Thus, the actual application for rights of way across U.S. Forest Service Lands is made by the Region Project Development Engineer in accordance with the 1991 Memorandum of Understanding, M 22-50 (HR). According to the provisions of the Federal Highway Act of August 27, 1958, the Federal Highway Administration on behalf of the U.S. Forest Service conveys an easement for the right of way to the state of Washington (under the terms and conditions set forth in the Letter of Consent and the separate Stipulation) by issuing a Highway Easement Deed.

B. The Region Administrator, the Region RESM, and the Forest Supervisor of the appropriate national forest coordinate to ensure that:

1. Application is made to the U.S. Forest Service for the right of way.
2. All encumbrances (e.g., leases, mining claims) are cleared.
3. Stipulations are agreed to and signed by the Forest Service and WSDOT Region Administrator.
4. All NEPA requirements are met.
5. The right of way plans submitted to the Forest Service are stamped “Reviewed” and signed by the Forest Surveyor of the appropriate national forest.
6. A Letter of Consent is signed by the Forest Supervisor.

C. Contact Headquarters Title Section for assistance with any of the above. When all of the above are completed, the title Section will contact the Federal Highway Administration and complete the Easement Deed process.

D. Temporary uses of national forest land outside of the easement area can be acquired by the Region RESM (or designee). Temporary use, such as a waste site, only requires a Special Use Permit from USFS.

TO: State of Washington Department of Transportation

FROM: State of Washington Department of _____

WHEREAS, the State of Washington, Department of _____ has jurisdiction and control of certain lands required for highway purposes, said lands being situated in _____ County, State of Washington, and more particularly described hereinafter; and

WHEREAS, the State of Washington, Department of Transportation, desires to purchase jurisdiction and control of said described lands for highway right of way purposes and will pay the full appraised value of said lands, which value is _____ dollars ($_____); and

NOW THEREFORE, be it resolved by the State of Washington, Department of _____, that upon payment of the sum of _____ dollars ($_____), which constitutes the appraised evaluation there is hereby released and transferred to the Washington State Department of Transportation, all jurisdiction and control of the State of Washington, Department of _____, in and to the following described lands:

(description)

The lands herein transferred contain an area of _____, more or less, the specific details concerning all of which are to be found within that certain map of definite location now of record and on file in the Office of the Secretary of Transportation at Olympia, Washington, entitled State Route _____, _____ and bearing date of approval _____.

Also, the State of Washington, Department of _____, herein transfers to the Washington State Department of Transportation all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) from and between State Route _____, _____ and the remainder of said _____, except (insert access reservations).

ADOPTED this _____ day of _____, 20___, State of Washington, Department of _____.

_____
Director, Real Estate Services

(Acknowledgment)

Release and Transfer of Jurisdiction and Control
Figure 6-5.5.2.2A

6-5.6.2 Bureau of Indian Affairs

The Bureau of Indian Affairs, U.S. Department of the Interior, has jurisdiction over applications for rights of way across Indian lands (Title 25 CFR, Section 169). The Region RESM contacts the Superintendent of the Indian agency (or other official of the Bureau of Indian Affairs) whose responsibilities include the lands involved. In completing the transaction, the Acquisition Agent complies with all the regulations and requirements of the Bureau of Indian Affairs, and acquires any needed releases of lease.

6-5.6.3 Other Federal Agencies

The Special Acquisition Manager:

A. Applies to the FHWA as provided in Title 23 USC Section 107(d) (Interstate) or Section 317 (other federal aid systems or other projects to be constructed, all or in part with federal funds) when either:

   1. The federal agency that controls the needed lands does not have the authority to grant rights of way.
   2. The federal agency that controls the needed lands wishes to proceed under Title 23 USC, Section 107(d) or Section 317.

B. When any of the following agencies wish to handle their own transactions, applies to the appropriate agency:

   1. U.S. Army or Air Force — Installation Commander and Region Engineer, Corps of Engineers, Department of the Army.
   2. U.S. Navy — Region Public Works officer of the appropriate Naval Region.
   3. Veterans Administration — Director, Veterans Administration, Washington, D.C.
   4. U.S. Department of the Interior
      a. Bureau of Land Management — Either Chief, Branch of Lands and Mineral Operations, (BLM), Portland, Oregon, or Manager, (BLM), Regional Office, Spokane, Washington.
      b. Bonneville Power Administration — Chief, Branch of Lands, (BPA), Portland, Oregon.
      c. National Park Service — Supervisor of the local installation.

C. Includes the following in the request:

   1. The purpose for which the lands are to be used.
   2. The estate or interest in the land required and/or extent of access control.
   3. Federal aid project number.
   4. Name of the agency having jurisdiction over the land and present use of the land.
   5. A commitment by the state to commence use of the land for the intended purpose within a period of not more than 10 years following the transfer of the land to the state.
   6. An approved map showing parcel number, area of the needed lands, and extent of access control.
   7. The legal description of the needed lands to conform to the survey of the needed lands as same appears on the maps.

8. Assurance of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332, et seq.); the Historic Preservation Act, 16 U.S.C. 470 (f), and with the Preservation of Parklands Act, 49 U.S.C. 1653 (f), if applicable.
9. Assurance of compliance with Title VI, Civil Rights Act of 1964 (49 CFR 21).
10. If the application is directed to the FHWA, a proposed Highway Easement Deed (DOT Forms 262-119 or 262-120, as applicable).

6-5.7 Sundry Sites

6-5.7.1 Materials Sites

A. A materials site is acquired either in fee (preferred) or by lease (see Section 6-6.4). In either case, one or more options (with respect to purchase and/or renewal) may be secured during the acquisition process.

B. Although the procedures for the acquisition of a materials site are similar to those for any other right of way acquisition, the following special procedures are applicable:

1. A Reclamation Plan is prepared by the region for each site in accordance with requirements of the *Plans Preparation Manual* (M 22-31). Since the Reclamation Plan is an excellent source of information and an aid to settling with the owner, a copy of the plan is included in the parcel file that is furnished to the Acquisition Agent.
2. When other than a fee interest in a materials site is to be acquired by the state, the concurrence of the owners/lessors in the concept of the Reclamation Plan is required. The Acquisition Agent submits the Reclamation Plan to the owners/lessors during negotiations and seeks their concurrence. Assuming such concurrence, the Acquisition Agent prepares a Memorandum addressed to the Region Administrator stating:

   "The (owners/lessors/etc) of this site have reviewed the Reclamation Plan, approved (dated), and concur with its concept."

   Note: The original of the Memorandum goes to the Region Administrator, and two copies are included with the data transmittal to Headquarters.
3. If the owners/lessors do not concur in the Reclamation Plan as presented, the Acquisition Agent breaks off negotiations, notes the owners/lessors objection to the Reclamation Plan, and advises the Region RESM of the facts.
4. The Region RESM reports the objections to the Region Administrator, and obtains either a modified Reclamation Plan or a decision to condemn the parcel. The Acquisition Agent is advised accordingly, and either resumes negotiations or turns the parcel in for condemnation.
5. The Acquisition Agent acquires an equivalent interest in the right of way for any needed access road (e.g., if the site is being acquired in fee, the access road is acquired in fee or by easement).

   Note: Temporary access to a site is acceptable only when the state obtains either a temporary interest in the site or when an alternate access will be established.
6. If all efforts to acquire a fee interest in the materials site by negotiations fail, the Acquisition Agent refers the matter to the Region RESM.
7. After proceeding as described in Section 6-6, the Region RESM instructs the Acquisition Agent whether to negotiate a lease, file a Negotiator's Report, or to begin negotiations for an alternate site.

6-5.7.2 Facility Sites

Facilities are managed by the Equipment and Facilities Office. Any decision to purchase, lease, or sell any such facility must have the approval of the Capital Facilities office. Within the computerized property inventory, property types PS (Pit Sites), SP (Stockpile Sites), and CI (Capital Inventory) comprise the Capital Facilities inventory.

Otherwise, the procedures for the acquisition of a capital plant site are similar to those for any other right of way acquisition.

6-5.8 Timber and Crops

WSDOT desires that its projects be environmentally compatible and aesthetically pleasing. Therefore, to the greatest extent possible, the natural vegetation is left intact within the limits of the right of way.

6-5.8.1 Rules

A. To the greatest extent practicable, WSDOT acquires timber standing on the right of way, and discourages the property owner from retaining salvage. The Determination of Value will reflect compensation for the timber.

B. With respect to crops other than timber, the property owner is permitted to harvest the crop if this will not interfere with the construction schedule. (Care must be taken to distinguish the crop from the fruit trees or vines producing it. The trees or vines themselves stand in the same situation as timber as discussed in A, above.)

6-5.8.2 Procedures

A. The Acquisition Agent does not offer timber for salvage.

B. If the property owner refuses to settle without being allowed to salvage at least some of the timber, the Acquisition Agent refers the matter to the Region RESM.

1. The Region RESM coordinates with the Region Administrator and obtains either:

   a. Approval to permit the owner to log the right of way.

   b. Approval to permit the owner to log specified area(s) within the right of way. In this case, the permitted area must be described in the instrument, mapped and flagged, or staked on the ground.

      Note:

      (1) In each of the above cases, the Region RESM requests that a Salvage Appraisal Report (DOT Form 263-003) be made with respect to the amount of logging by the Region Administrator.

      (2) In each of the above cases, the property owner must agree to abide by the State Forest Practices Act as amended (RCW 76.09) and any restrictions which might be imposed by the WSDOT's environmental plan for the project.

   c. Denial of permission to log the right of way.

2. The Acquisition Agent proceeds as instructed. If any timber cutting is allowed, the value of the timber salvage is shown on the Salvage Appraisal Report.

C. With respect to crops other than timber (see Section 6-5.8), the Acquisition Agent permits the property owner to harvest the crop provided this can be accomplished without interfering with the department's construction schedule. Also the owner must be willing to execute a rental agreement if the crop cannot be harvested before the state assumes control of the property (see Section 6-7).

D. Timber acquired under B or C, above, is reported on the Fixtures and Improvements Agreement (Form RES-335). Salvage rights, if any, sold back to the property owner are also indicated on this form. Agreement with respect to compliance with the State Forest Practices Act and the department's environmental plan for the project are inserted in the remarks section. A rental agreement is required for any period of salvage activity after the payment date.

6-5.9 Mining Claims

The following sections cover procedures for acquiring both patented and unpatented mining claims. Mineral rights and reservations are covered in Chapter 8.

6-5.9.1 General Procedures

A. The Region RESM contacts the U.S. Bureau of Land Management (BLM) to determine whether the right of way crosses lands "open to mining claims." If so, the Region RESM files an application with the BLM to have the right of way withdrawn from the "open" lands. This procedure insures against the filing of future mining claims within the right of way. Mining claims filed on other than "open" lands are invalid and may be ignored. When a mining claim is found to be invalid because it was filed on other than "open" lands or because of any other reason, the fee ownership must be determined and dealt with.

B. To determine the existence of valid mining claims, the Region RESM:

1. Checks the mining claim records at the county courthouse.
2. Makes an on-site inspection of the project. Checks for the existence of unpatented mining claims on patented mining claim lands for overlapping claims, etc.
3. Interviews area residents and prospectors.
4. Has the BLM determine the validity of all existing mining claims.

C. Usually mining claims are acquired for a nominal amount (up to $500). However, a valid, mineral-rich, and actively worked claim may not be available on this basis. In this case, the Region RESM has the mining claim appraised by a licensed professional mining engineer. After the specialist report is filed, appraisal review and acquisition proceed in the normal manner.

D. If the claim holder wishes to retain the subsurface mineral rights, the Acquisition Agent uses the procedures in Chapter 8 as well as those given below.

6-5.9.2 Patented Mining Claims

A patented mining claim is essentially a fee ownership; however, several special steps must be followed:

A. The Region RESM checks the conditions and stipulations in the patent. For example, timber rights are often reserved by the United States. If ignored, this could result in an overpayment to the patentee.

B. The Acquisition Agent proceeds in the same manner as for any other fee ownership. If the on-site inspection reveals any unpatented mining claims on the property or other problems arise, the Acquisition Agent reports this to the Region RESM and awaits further instructions.

6-5.9.3 Unpatented Mining Claims

An unpatented mining claim is the personal property of the claimant and is only a possessory right. However, the courts have ruled that this possessory right is a real property interest that is compensable in eminent domain proceedings. In effect, it is an encumbrance, and acquisition of the right does not provide the department with all interest in real property.

The Acquisition Agent offers a nominal payment (up to $500) for a Quitclaim Deed (Form RES-306) to clear the mining claim.

6-5.10 Water Rights

Water rights, being most frequently encumbrances rather than subjects of acquisition, are covered in Chapter 8.

6-5.11 Wells, Springs, and Septic Systems

A well, spring, or septic system lying within the area to be acquired may be a damage item and as such will be covered in the appraisal of the property. Wells, springs, or septic systems lying within the remainder may become a problem. After completion of a project, the owner may file a claim that the project has impaired the quality and/or quantity of the water or damaged the septic system. To determine the validity of the claim, it is necessary to have data on the quality and quantity of water produced by the well or spring prior to construction of the project. See Chapter 8 for procedures on obtaining tests prior to construction. See Section 6-6 for Damage Claims.

Well and septic problems can sometimes be handled with the use of agreements. The decision to use a Well or Septic Agreement should be made by the Real Estate Services Manager with input from the Appraiser and the Appraisal Supervisor. If it is decided to use a Well or Septic Agreement, the department needs to be reasonably assured that a system can be replaced on site. A visit to the County Health Department or an appropriate specialist is highly recommended. While a detailed analysis or cost breakdown is not required, the opinion of the county or specialist on the type of system required should be documented.

If the system cannot be replaced, a Well or Septic Agreement cannot be used. In this case, a before and after appraisal with appropriate damages should be completed. If research reveals that an agreement would be appropriate, then the appraisal report can be completed with the stated assumption that the system will be replaced in an adequate fashion.

6-5.12 Registered Lands (Torrens Title)

A. When a title report shows that a parcel is registered land and that the duplicate certificates are not on file in the Registrar's office, the Acquisition Agent includes the following items together with the usual instrument, voucher, etc., in the transaction package:

   1. The owner's duplicate certificate of ownership. If the original "owner's duplicate" has been lost, the owner must execute an affidavit, file it with the Registrar (County Auditor), and apply to the courts for an order to issue a new duplicate certificate.
   2. The mortgagee's duplicate certificate, if there is a mortgage to be satisfied or partially released.
   3. The lessee's duplicate certificate, if there is a registered lease (for a term of three years or more) to be released.

B. All instruments that are to be filed must be prepared and executed in duplicate, in order to provide an instrument for Headquarters' records (the Registrar retains the original as part of the county's records).

C. In the event that a parcel of registered land is condemned, the Acquisition Agent proceeds as described in Section 6-10.

6-5.13 Special Benefits

A. The subject of special benefits may arise in partial acquisitions. In this state, it is necessary to differentiate between and understand three concepts wherein value may be created by a pending highway improvement. The three concepts are defined as follows:

1. Enhancement — Increases in real estate values in advance of right of way acquisition created by knowledge of pending highway improvement.
2. Special Benefits — Value accruing to the remainder of a property by reason of acquisition and use by the state of a portion of such property where such value is special to said remainder and not enjoyed by the general public. Benefits may be special even if other owners on the facility receive similar benefits.
3. General Benefits — Washington law does not clearly define general benefits. Because of this we have only attempted to explain special benefits and will assume that any benefits which are not "special" may be properly considered to be "general" benefits.

   Under both state and federal procedures, an owner may not receive compensation based on values due to "enhancement." In federal condemnation cases, both special and general benefits must be offset against compensation for the part being acquired and/or damages. In state condemnation cases, only special benefits are to be offset against compensation for the part being acquired and/or damages.

B. The Acquisition Agent:

1. Shows the amount of special benefits charged (as shown on the Determination of Value) in the Fair Offer Letter (Figure 6-2.2H) by adding the appropriate clause.
2. Adds Clause B to the Fair Offer Letter and attaches a copy of RCW Chapters 8.25.210 through RCW 8.25.260 to the owner's copy of the Fair Offer Letter.
3. Modifies the owner's receipt for the Fair Offer Letter to include receipt of a copy of the statutes.
4. Gives the owner adequate time to consult with counsel of choice before attempting closure.

6-5.14 Toxic/Hazardous Waste Situations

Initial site assessments and preliminary site investigations should have already been conducted before the acquisition agent is assigned the property. Chapter 4 contains information on the indications of a contaminated site.

A. When the appraisal indicates a parcel is listed in the Hazmat Database, the acquisition agent will consult with the Environmental Service Office (ESO), the Region RES Manager, and the Assistant Director for Title and Condemnation for the appropriate method of mitigating the risk to WSDOT. Items F and G below provided direction.

B. When a potential hazardous waste or contamination situation is observed or indicated to the acquisition agent, the agent will complete a hazardous waste checklist and submit it to the Region RES Manager. The checklist can be found in Appendix 11-2.

C. The Manager will forward to ESO with a copy to the Project Engineer and the Project Development Engineer. When a contaminated site is discovered at this stage of the right of way project, there could be significant project delays, therefore it is imperative the project managers be notified.

D. ESO will report back with its assessment and estimates for costs to clean up the contamination.

E. The Region Appraisal Supervisor should be consulted to determine if the appraisal needs to be revised. IF so, a new offer will need to be presented.

F. Several methods of clean up procedures can be used. These will be unique to each parcel and the following list in note meant to be the only methods available. Each method should be discussed with the Region RES Manager and Assistant Director for Title and Condemnation to assure proper risk assessment and avoidance is applied.

1. The property will be purchased as if clean and the acquisition agent withholds the clean up costs from the compensation. The risk is the estimate may over or understate the clean up costs. Depending on the confidence of the ESO in the estimate and the potential for additional contamination, and indemnity clause may be needed in the deed.

2. The property is purchased as if clean and the property owner agrees to an indemnity clause in the deed. This means the owner will be liable for any future clean up costs.

3. The funds to acquire the property can be placed in escrow. The property owner then cleans up the contamination using draws on the escrowed funds to pay for the clean up. This method will only work on early acquisitions or shelf projects as there is not usually sufficient time to clean up a site in our construction schedule. Once the site is cleaned to ESO's satisfaction, the remaining funds can be released. Indemnity language may or may not be needed in the deed, depending on the risk of future clean up costs.

4. If the appraisal used contaminated sales, the diminution of value due to the contamination is recognized and no indemnity language would be needed in the deed. It is extremely unusual that this situation will occur without extensive environmental investigation and very substantial sales comparisons in the appraisal.

5. Prospective Purchasers Agreements. The Washington State Department of Ecology has a procedure for resolving the liability for a particular site prior to the purchase of the site. This procedure involves entering into what is known as a prospective purchaser agreement. Through this process, the agency is able to negotiate with Ecology prior to purchase to limit the extent of the agency's responsibility.

6. When access rights only are acquired, there is no need for an indemnity clause or a deduction for clean up costs.

G. ESO and RES will need to work together to assure the appropriate measures are used in the clean up of the property. ESO will process all Department of Ecology filings.

H. Until such time when the REIS database and the Hazmat database are linked, the acquisition information is entered into the Hazmat Database by the HQ Title Examiner.

6-6 Acquisition of Less Than Fee Simple Title

6-6.1 Access Rights Only

A. When only the access rights are to be obtained, the Acquisition Agent proceeds in much the same manner as for a normal acquisition (see Sections 6-2, 6-3, 6-8). The Acquisition Agent obtains a Warranty Deed, Access Rights Only (Form RES-305), and clears encumbrances (see Chapter 8).

B. When a limited access facility is being built in an entirely new location and when its right of way and access lines coincide with an ownership boundary, the Acquisition Agent acquires the abutting owner's access rights (in the usual manner) only if such abutting owners have a previously existing legal access; i.e., have legal access to or through the neighbor's private property, which is being acquired by WSDOT.

C. When a conventional facility is being converted into a limited access facility, the Acquisition Agent acquires the abutting owner's access rights in the usual manner.

D. Compensation for loss of access (A, B, and C, above) is justified only if so indicated by a valid Before and After Appraisal and Determination of Value.

E. If no access restriction is shown on the right of way plans, access cannot be acquired without prior written approval form the DRES and the Access and Hearings Engineer.

F. If it appears that a change in the Access Plan would be in the best interest of the state, the Acquisition Agent proceeds as described in Section 6-4.

6-6.2 Easements and Permits

6-6.2.1 Rules

A. WSDOT normally acquires fee title to all lands lying within the right of way of a programmed project.

B. WSDOT may acquire either fee title, easements, or permits when property rights are needed outside the right of way prism.

1. WSDOT acquires fee title when it needs the exclusive right of use and occupancy of the property for itself or for transfer to another public service agency.

2. WSDOT may acquire an easement when it needs a continuing, nonexclusive right to enter upon the property of another. The easement will set forth the WSDOT's right to the use of the property under specified circumstances and/or conditions for either a limited or an unlimited time period. An easement can be created either by gift or by purchase; it can be transferred; and it can be extinguished by sale, abandonment, or relinquishment. The following are examples of typical easement situations:

   a. An easement for cut or fill slopes, provided that:

      (1) The slope can be put to use with the adjoining lands without detriment to the state's project (e.g., grazing land).

      (2) The slope may be eliminated in the future by bringing the abutting lands to the same grade as the highway facility.

   b. An easement for the construction of and continued access to project protection features (e.g., channel change, drainage).

   c. An easement for land needed to replace the functional requirements of an existing easement.

3. WSDOT acquires either a construction permit or a temporary easement when it needs the temporary right to enter upon the property of another. The easement or permit will set forth the WSDOT's right to the use of the property under specified circumstances and/or conditions for a limited time period. The document will also include details of or reference to a plan for any restoration to be performed by the state on the site. An easement or permit can be created either by gift or by purchase, and is extinguished in accordance with it's terms. The following are examples of typical easement or permit situations:

a. Temporary Easement. This easement is used when the state requires a property right of a temporary nature that involves more than minor work. In most cases, the rights required or the work to be performed is not beneficial to the property owner and just compensation will be paid. The temporary easement will expire by it's own terms by inclusion of a statement to the following. "The temporary rights herein granted shall terminate within _____ years from date hereof." Caution should be taken to allow ample time for completion of construction and the opening of the highway to traffic.

b. Construction Permit. The construction permit is used for temporary rights during construction and should not be used when WSDOT needs a perpetual right. A construction permit is valid with the current owner only and must be renegotiated if property ownership changes before construction begins.

- Construction permits will be drafted by the Region Real Estate Services Office. They will also fulfill the criteria listed below.

  Characteristics of a construction permit are as follows:

- Will involve relatively minor work that is acceptable to the property owner, such as driveway reconnections, slope flattening, and/or contouring.
- In most situations where no other property rights are to be acquired from the same ownership as a part of the same project.
- The construction permit is normally obtained without payment of compensation (donation/mutual benefits).

If at any time during the acquisition process it becomes apparent that the required permit no longer matches the qualifying characteristics, a temporary easement must be obtained following the formal process as noted herein.

4. Construction Permits — Definitions, requirements, and disposition.

   a. Execution of instrument need not be notarized.

   b. Need not be submitted to or approved by Headquarters Real Estate Services Office.

   c. Executed permit is retained in Region Real Estate Services Office in a file created for that purpose.

5. Condemnation. Temporary easement or permit areas to be acquired by condemnation must be shown on the official Right of Way Plan.

6. Lands areas in which less than fee simple title is required are identified on the approved Right of Way Plan.

7. Appropriate instrument formats are described in Chapter 9.

8. <u>The recording of Temporary Easements and Construction Permits will be based upon the following:</u>

   1. <u>The temporary rights are shown on the R/W plan.</u>

   2. <u>Value is $1000.00 or more.</u>

   3. <u>That it has a term of more than six (6) months.</u>

   4. <u>That there is an expiration date.</u>

6-6.2.2 Procedures

A. The Region RESM:

1. Obtains from the Development Engineer sufficient information defining how or for what purpose a property is to be used. This will allow determination of the type of instrument of conveyance (i.e., deed, easement or permit) and compose the appropriate language of conveyance that will obtain all and only those property rights that are necessary, in accordance with Chapter 9.
2. Obtains appraisals and appraisal review or administrative determinations of value in the normal manner determining the appropriate compensation for those rights being affected, unless there has been advance notice that the owner intends to donate the needed property rights (see Section 6-1).

B. The Acquisition Agent:

Obtains the conveyance and whatever other instruments, vouchers, etc., may be required.

1. Relocation assistance normally is not involved in the acquisition of an easement or permit, but if such acquisition should cause a displacement, relocation assistance is applicable to the same degree that it would be in a fee acquisition.
2. Property management normally is not involved in the acquisition of easements or permits (but see Chapter 11 for "after acquisition responsibilities"), except in the situation where improvements lie within the easement or permit area or the duration of the easement or permit is for more than 10 years (See Section 6-4).
3. If the owner elects to donate the required property rights, complies with Section 6-3.

6-6.3 Access Easement for Transfer (Managed Access Routes Only)

6-6.3.1 Rules

When a R/W plan shows an "Access Easement for Transfer" across a private owner (A), the servient tenement, to serve another single private owner (B), the dominant tenement, we cannot condemn for the easement. We cannot use public money to condemn a private access for a third party because this situation is not a PUBLIC USE as defined in RCW 8.04.070.

Owner A does not have to grant the easement to Owner B. Owner B does not have to accept the easement across Owner A.

6.6.3.2 Procedure

1. The Region orders title reports for both parcels and assigns state parcel numbers. Both parcels need to be shown on the right of way plan.
2. Prior to plan approval, the region should have an agreement from both parties accepting the proposed easement.
3. During the appraisal stage of acquisition, the appraiser prepares a two-premise report for each property. The Before description and valuation is the same for both premises. The After description and valuation is different.
   a. For Owner A, the first premise in the After situation is without the easement. The second premise in the After is with the easement.
   b. For Owner B, the first premise in the After situation is without the easement from Owner A. The second premise in the After situation is with the easement from Owner A.

The Determination of Value is handled the same way so that the acquisition agent will have all the information required to cover the situation.

4. Upon establishment of just compensation, the acquisition agent proceeds with the acquisition. If either owner is unwilling to agree to the easement, then the easement is removed from the right of way plans and revised offers are made.

6-6.4 Change of Grade

6-6.4.1 General

Once the grade of an existing street, road, or highway has been established, any change of that grade may cause a compensable damage to any abutting property owner. The fact that a change of grade can be accomplished within the existing right of way does not eliminate the need to negotiate with the abutting owner.

6-6.4.2 Procedure

A. When right of way is being acquired from the abutting owner, the Acquisition Agent proceeds with the acquisition in the normal manner (see Sections 6-2, 6-3, and 6-8). Damages, if any, will appear in the Determination of Value.

B. When no land is being acquired from the abutting property owner, the Acquisition Agent has the property owner execute the Consent to Change of Grade (Form RES-323) (see Chapter 9) and voucher if appropriate (see Chapter 10), and prepares the transmittal as specified in Section 6-8. Compensation, if any, is determined through the appraisal process (see Chapter 4).

6-6.5 Leases

6-6.5.1 Rules

A. For the acquisition of temporary rights, WSDOT uses a lease if a permit or temporary easement does not secure adequate interest and if a lease is customarily used in private real estate practices involving the types of rights required.

B. If WSDOT is unable to acquire a materials source or other sundry site in fee and temporary rights are determined to be an acceptable alternate for the state, a lease is generally used.

6-6.5.2 Procedures

A. The Region RESM determines the appropriate instrument of conveyance to be used.

B. If it is impossible to negotiate a purchase of a materials site, the Region RESM:

1. Obtains information from the Region Administrator on quantities and types of materials to be removed.
2. Coordinates with the Deputy Director of Real Estate Services to determine the Attorney General's opinion with respect to condemnation of the site.
3. Obtains appraisal(s) and appraisal review(s).
4. Submits recommendations to the Region Administrator regarding a proposed lease. These recommendations include:
   a. The Reclamation Plan as prepared in accordance with the reference cited in Chapter 1.
   b. The Attorney General's opinion regarding condemnation of the site.
   c. The potential resale value of the site after reclamation.

d. The amount of material required, and its estimated cost on a lease basis.

e. Lease for _____ (Form RES-418) completed as specified in Chapter 9.

5. Upon receipt of Region Administrator's approval or rejection, takes the appropriate action:

a. If approved, instructs the Acquisition Agent to secure the owner's execution of the lease.

b. If disapproved and no alternative material site is available, submits the parcel for condemnation per Sections 6-10 or 6-11.

C. If so instructed, the Acquisition Agent proceeds as described in Section 6-5, obtains the owner's execution of the appropriate lease, concurrence with the concepts of the Reclamation Plan (see Section 6-5), and transmits the lease and other associated data as specified in Section 6-8.

6-6.6 Damage Claims

6-6.6.1 Initial Action

A. Upon receipt of a claim for damages from a property owner, the Region RESM starts a Diary of Right of Way Activities (Form RES-301), and investigates the basis for the claim.

Note: A damage claim may be initiated by an oral communication and preliminary investigation made on the basis of that communication. An alleged damage must be claimed in writing, however, before it can receive any official status. No format is prescribed.

Note: Investigators are to obtain the facts, but are not to make any comments on cause or liability to the claimants.

Note: If a construction project is ongoing in the area of the claim, the Region RESM and the Project Manager should investigate the possibility of having the problem corrected by the contractor.

If the claim is based on taking or damaging of private property or property rights for which the owner has not been paid and rights will need to be acquired, the claim is a right of way responsibility; however, if the claim appears to be based on tort liability (i.e., contractor carelessness, etc.), the claim is forwarded to the department's Risk Management Office. If it is unclear who should have responsibility for the claim, the package should be forwarded to Risk Management for their input. If the claim is determined to be the responsibility of Risk Management, they will take over the processing of the claim and Real Estate Services will only be involved if requested by Risk Management to help with claim resolution. It is possible that some claims have elements that cross boundaries and responsibility may be shared.

Note: In general, Tort Claims have a three-year Statute of Limitations and Inverse Actions have a ten-year Statute of Limitations.

B. If the claim is determined to be a damage (the responsibility of RES), then the Region RESM submits a report to the DRES including:

1. The original written claim.

2. A copy of the Diary of Right of Way Activities stating the facts and conclusions developed as a result of the investigation of the case.

3. An estimate of the direct costs to WSDOT if WSDOT is found liable for settlement.
4. All related correspondence.
5. Maps and/or information identifying the geographic location.
6. Damage Claim Evaluation (DOT Form 220-025) signed by Region RESM.

C. The DRES opens a new Diary of Right of Way Activities by an entry showing receipt of the damage claim, maintains the file, and coordinates all further activities.

D. If there is any doubt about department liability, the DRES refers the case to the Attorney General Division for an opinion.

E. Upon receipt of the opinion of the Attorney General, the DRES forwards same to the Region Administrator with the directions to proceed as indicated in Section 6-6 as appropriate.

6-6.6.2 Procedures — State Liabilities

A. The Region Administrator's staff prepares and submits the following data to document the Work Order Authorization (DOT Form 160-020) as specified in Chapter 1.

1. An estimate of all necessary costs including:
   a. Title report (if needed).
   b. Salaries (appraisers, reviewers, title examiners, acquisition agents, relocation agents, property management agents, administration).
   c. Travel and per diem.
   d. Appraisal fees.
   e. Specialist fees.
   f. Cash settlement.
   g. Relocation assistance entitlements.
   h. Property management expenses.
   i. Costs (other than cash settlement) of state force or state contract activity to resolve damage.
2. A copy of the Diary of Right of Way Activities stating the facts and conclusions developed as a result of the investigation of the case.
3. A statement as to what costs are chargeable to construction.

   Note: If the damage or taking was the result of construction (e.g., owner's basement cracked by vibration or blasting, etc.) the claim is chargeable to construction. If the damage was due to a taking of additional property, the claim is chargeable to "right of way acquisition."

B. Upon receipt of the Work Order Accounting Plan, the Region Administrator expedites the settlement transaction by using the normal right of way acquisition procedures including appraisal and Determination of Value addressed to the dollar amount of the damages. Instruments and vouchers are drawn and executed as appropriate to the settlement.

C. When the transmittal is received in Headquarters, the DRES submits the settlement transaction to the Attorney General (AG) (Transportation Division) for certification and approval of the voucher. Upon approval, the AG stamps the voucher and signs it. The text of the AG's stamp is as follows:

This voucher is in payment for private property taken or damaged for public use without just compensation having been first made to the owner in violation of Article 1, Section 16, of the constitution of the State of Washington.

Approved for Payment

_____

Assistant Attorney General

This step is required when the release of damages is being obtained due to an unconstitutional entry and use of private property without prior negotiation and agreement with the property owner.

D. If WSDOT's settlement offer is rejected by the claimant, condemnation reports are informational and are submitted in the normal manner, but these reports are not acted upon directly by the Attorney General (Transportation Division). Instead, the Acquisition Agent informs the claimant that to obtain a settlement it will be necessary for the claimant to file legal action (i.e., inverse condemnation) against WSDOT.

6-6.6.3 Procedures — State Not Liable

When the Attorney General (Transportation Division) determines that WSDOT is not liable, the Region Administrator informs the claimant by letter, and sends a copy of the letter to the DRES. The Region Administrator calls upon the DRES and the Attorney General (Transportation Division) as needed in preparing the letter. The letter may be hand-delivered by the Acquisition Agent thus permitting a personal explanation.

6-7 Ownership and Occupancy

6-7.1 General

A. Definitions

1. Ownership — WSDOT acquires ownership of property and/or property rights on the "payment available date" (when payment is made available to the owner).
2. Early Occupancy — The right to use and occupy the property subsequent to settlement agreement and prior to ownership.

B. In the case of lands occupied by persons, personal property, business, or farm operation, WSDOT acquires ownership, but cannot acquire occupancy without providing the owners and tenants with a written assurance at least ninety (90) days prior to the earliest date by which they could be required to vacate the property as specified in Chapter 12.

6-7.2 Rules

A. In the case of unimproved property, the appropriate occupancy clause is included in each instrument of conveyance (see Chapter 9). In cases involving improved properties, the occupancy clause is included in the Fixtures and Improvement Agreement, and is not included in the conveyance documents.

B. Any occupancy by the grantor or tenant after the state acquires ownership requires payment of rent to WSDOT. Any rent free occupancy is considered as an inducement for settlement and can be offered only with prior approval from the DRES.

C. Rental to the original displaced owner or tenant beyond the initial 90 day period is allowed only with prior written approval by the DRES (see Chapter & Chapter).

D. Rental rates to original displaced Owner or tenant may not exceed fair market rent.

6-7.3 Procedures

The Acquisition Agent:

A. Coordinates with the Property Management Agent to determine the amount of rent and any leasehold excise tax which will be required after the state acquires ownership (see Chapter 11).

B. Advises owner:

1. If property is occupied, the tenant will be required to sign a lease with WSDOT and surrender occupancy in accordance with the terms of the lease once WSDOT acquires ownership of the property. The lease cannot terminate prior to the displaced occupant being provided with their Notice of Eligibility, Entitlement, and 90 Day Assurance letter. This also applies to those parcels where just personal property is involved

2. That WSDOT is required by law to advise any tenants of their rights and entitlements under the Uniform Relocation Assistance Act. The owner is advised that it is the WSDOT's policy to discourage tenants from vacating the subject prior to the sale to the state.

3. That the owner's right to collect the rents of tenants in occupancy terminates on the date WSDOT makes payment for the property available to the owner, and that the collection of such rents should be adjusted accordingly.

4. During negotiations, ensures that the owner is fully aware of the amount of rent to be collected after WSDOT acquires ownership and any other terms or conditions which may be required (i.e., leasehold excise tax).

C. Selects the appropriate occupancy clause from Chapter 9 and inserts it in the instrument(s) of conveyance.

D. Obtains execution of the instrument(s), and, if required, the Fixtures and Improvements Agreement.

E. When tenants occupy acquired improvements, the agent inquires of the tenant if a deposit has been paid to the landlord. The agent should determine the amount of the deposit and if it includes last month's rent.

1. If there is no deposit of last month's rent, the agent documents this fact in the diary.

2. If a deposit and/or last month's rent exists, it must be dealt with by deducting said amount from the primary payment voucher and preparing a secondary voucher paying said amount to the tenant or tenants.

3. If the landlord elects to refund the amounts directly to the tenant, acquires evidence of this fact from both landlord and tenant, and documents this in the diary.

6-8 Acquisition Transmittal

After acquiring or clearing all interests in a parcel, the Acquisition Agent prepares the data package for transmittal.

Note: All interests in each respective parcel must be acquired, cleared or noted for future clearance (see Chapter 8). If any one interest cannot be acquired, cleared or noted for future clearance, the Acquisition Agent refers the parcel for condemnation using the procedures of Sections 6-10 and 6-11.

6-8.1 Right of Way Parcel Transmittal (DOT Form 262-048)

Having successfully negotiated a transaction, the Acquisition Agent prepares the Right of Way Parcel Transmittal, as follows:

A. Identification and Headings

1. Right of way project number, state route, title, federal aid number, control section number, and right of way number. Inserts official data for the parcel.
2. Grantors — Inserts the grantor's name.
3. Inventory control number — To be completed by the Property Management Agent (see Chapter 11).
4. Contract ad date (if scheduled) — Insert the currently scheduled ad date for the first construction project that will require the availability of this property or property right.
5. Map sheet — Inserts appropriate map sheet number (e.g., 13 of 47).
6. From — Inserts closing Right of Way Agent's name.
7. Initial/supplemental transmittal — Places an "X" in the appropriate box to indicate whether this is an initial or a supplemental transmittal, and inserts the date in the blank provided. If this is a "supplemental transmittal," places an "X" in the appropriate box to indicate whether the "initial transmittal" was an "acquisition" or a "condemnation," and inserts the date of the initial transmittal in the blank provided.

B. Transaction Data

1. Real Property Voucher(s) — Inserts the amounts of each voucher.
2. Instruments — In the space provided, indicates the types of executed instruments attached (e.g., warranty deed, partial reconveyance, exchange agreement).
3. Encumbrance Report — Shows the method of clearance of every encumbrance on the title report and on all supplemental reports (see Chapter 8).
4. Mailing Addresses — Lists the correct names and mailing addresses for all parties signing the voucher(s).
5. Parcel Number — Inserts official data for the parcel.

C. Acquisition Agent's Summary (back side of form)

1. Settlement — Places an "X" in the appropriate box to indicate whether the acquisition was "total" or "partial." Inserts the amount of the settlement before adjustments for salvage, performance bond, statutory evaluation allowance, etc. Inserts in the blanks provided: the right of way area, date of deed, amounts and dates of all offers. Gives any required explanations in Section C, "Remarks."
2. Occupancy — Places an "X" in the appropriate box to indicate whether the property being acquired by WSDOT was "occupied" or "unoccupied" on the date of the Initial Offer Letter.

   Note: Property is "occupied" if persons are in residence, if it is being used as a part of a business or farm operation, or if it is being used for storage of personalty.
3. Certification — Inserts the agent's name, signs, and dates the certificate.
4. Remarks — Enters here any pertinent explanations, information, etc., including, if appropriate, the fact that the parcel had been previously turned in for condemnation.

6-8.2 Right of Way Parcel Package

In addition to the Right of Way Parcel Transmittal the remainder of the package is made up of the following attachments (as appropriate) in the order listed:

A. Memo: Special Handling — Attaches the memo to the face of the acquisition transmittal form (see Section 6-8.3).

B. Administrative Settlement — Attaches letter justifying any administrative settlement or makes appropriate diary entry (see Section 6-9).

C. Diary of Right of Way Activities (Form RES-301) — Assures that the diary is complete and that it is signed and dated.

D. An Executed Original Real Property Voucher(s).

E. Executed IRS W-9 form

F. Instrument(s) — Originals only required.

G. Escrow Agreement (Form RES 337) — Includes the white, canary, and pink copies with the transmittal to Headquarters, completely filled out and signed.

H. Memo: Construction Item — Includes the original and two copies of memo (Construction IOC) signed by the Region Administrator authorizing a special construction item (see Section 6-4.4).

I. Offer Letter and Revisions — Assures that the delivery data is completed on all.

J. Title Report — Assures that the title report and all supplemental reports are included, and are not older than six (6) months.

K. Letter: Instrument Guarantee — Includes, if applicable, a letter from an interested party guaranteeing that a required instrument will be executed upon receipt of funds (usually Partial Satisfaction of Mortgage or Partial Reconveyance).

L. Letter: Taxes — Includes, if applicable, (1) a letter from the mortgagee guaranteeing that the real estate taxes will be paid out of the reserves, or (2) a letter signed by the grantors and approved by the County Assessor requesting that the real estate tax lien be set over to the remainder of the property.

M. Affidavits/Comments — Includes any necessary affidavits or documents.

N. Miscellaneous Correspondence — Includes correspondence relating to the transaction. Assures that all correspondence from the grantor is included. Includes bills/receipts for statutory evaluation allowance, etc.

O. Copy of the Relocation Eligibility Report (DOT Form 264-003).

P. Copy of the Notice of Relocation Rights Letter.

Q Salvage Appraisal Report (DOT Form 263-003) — Accounts for salvage values.

R. Fixtures and Improvements Agreement (Form RES-335) — Itemizes all fixtures and improvements acquired.

S. Determination of Value (Form RES-214) or Administrative Offer Summary (Form RES-216) — Includes all DV's and AOS's.

6-8.3 Special Handling

6-8.3.1 General

A. "Hardship" acquisitions are automatically given priority handling both in region and in Headquarters.

B. All other cases receive normal routing unless an approved "Memo: Special Handling" is attached to the face of the Right of Way Parcel Transmittal.

6-8.3.2 Rules

Transactions are given "special handling" only in emergencies, such as:

A. A threat of irreparable damage to the grantor in terms of monetary loss or burden.

B. Extreme hardship.

C. An urgent public relations problem where the state is correcting its own error.

D. Tax payment.

E. Ad date in jeopardy.

(Use Memorandum Format)

TO: Director, Real Estate Services

FROM: Right of Way Agent (Name)

SUBJECT: Special Handling
Project Title
FA _____
C.S. _____
Parcel Number _____

Please provide special handling for the above-reverenced parcel because:

(State the justification for special handling here.)

Recommended by: Approved by:

_____ _____

Region Real Estate Services Manager Date Director, Real Estate Services Date

Memo: Special Handling
Figure 6-8.3.3.2A

6-8.3.3 Procedures

6-8.3.3.1 "Hardship" Acquisition

All "hardship" acquisitions have already been authorized for special handling. Therefore, the Acquisition Agent stamps or writes in large red letters "Hardship" on the face of the Right of Way Parcel Transmittal to assure that the transmittal will receive "special handling."

6-8.3.3.2 Memo: Special Handling

A. In compliance with this section, the Acquisition Agent prepares a memo requesting that the transaction be given special handling (see Figure 6-8.3.3.2A).

B. The Region RESM reviews the memo, and if approved, signs the memo in the space provided.

C. The Acquisition Agent attaches the "Memo: Special Handling" to the face of the Right of Way Parcel Transmittal.

6-8.3.3.3 Priority of Files

A. All "hardship" acquisitions and all transmittals with a signed "Memo: Special Handling" take precedence over any backlog of regular transmittals or condemnation reports in the region's and Headquarters processing procedure.

B. All personnel expedite the review of the transmittal and hand-carry the transmittal to the next station in the review process.

6-8.4 Region Processing

Region processing includes the following functions: title, property management, relocation assistance, appraisal, and accounting. The transmitting acquisition agent should not be responsible for any part of the region review of the transmittal, but makes certain all appropriate entries are made in computer.

6-8.4.1 Title Review

The Region RESM makes a detailed review of the entire data package, to assure that WSDOT will acquire an insurable title in the interest required. This review includes the following:

A. Instruments

Verification that all instruments needed to convey and/or clear title either have been executed or are provided for by the escrow instructions. Such verification includes the following items:

1. The project title is included in heading and at the first opportunity in the text (usually this will be in the legal description of the WSDOT's acquisition) exactly as it is given on the approved Right of Way Plans. Subsequent references in the text of the instrument are to "said highway." When applicable, the project title includes the pit or stockpile site number.

2. The county is named.

3. A valid consideration which is not in conflict with the actual amount to be paid is stated. (e.g., instrument should not show "10 dollars and other valuable considerations" when only $5 cash is being paid.)

4. The names of the grantors agree with those given in the title report, and the signatures and acknowledgments conform exactly with the grantor clause.

a. The marital status is stated (see Chapter 9).

b. If the grantor is a political subdivision or a corporation:

(1) The corporate name appears exactly as shown in the title report, the corporation is licensed to do business in the state of Washington and its license fees have been paid.

(2) The corporate seal, if required, agrees with the title report and grantor clause.

(3) The corporate form of acknowledgment is used, the signing officers are identified, and the data package contains a corporate resolution, if required.

(4) If a political subdivision or municipal corporation, the conveyance is in accordance with applicable statutes, and the data package contains an appropriate resolution.

(5) If a church, the bylaws permit the method of conveyance.

c. If the grantor is a partnership:

(1) All partners and their spouses have executed the instrument, unless evidence is provided which shows that certain partner(s) have the right to convey for the partnership.

(2) The conveyance conforms with applicable statutes.

d. If the signature and acknowledgment are by an attorney-in-fact, administrator, executor, or guardian, ascertains that the data package includes the authority for such signature and the proper acknowledgment.

5. The legal description of the grantor's property is given and the areas and interests conveyed conform to the approved Right of Way Plan.

6. In a partial acquisition:

a. A check of the legal description of WSDOT's acquisition on the Right of Way Plan affirms that all of the right of way across the entire ownership has been included.

b. The access clause, if required, complies with the access requirements of the Right of Way Plan. If not, check that the data package contains the Region Administrator's approval of the change in the Access Plan and that an appropriate map revision has been requested.

c. Clauses for any special construction items (e.g., road approach, right of entry to construct, if required) shown on the Right of Way Plan have been included. Also check that the data package includes construction item memos and, in the case of construction items not on the Right of Way Plan, that these memos have been approved by the Region Administrator. Also, verify that the special consideration is shown on the principal Real Property Voucher.

d. The area given in the specific details clause is identical to that shown on the Right of Way Plan, the reviewing Appraiser's Determination of Value, and the principal Real Property Voucher. Also, check that the most recent revision of the Right of Way Plan is included in the specific details clause.

7. The occupancy and any other necessary clauses (e.g., straddle, moving improvements) have been included. Also, check that the principal Real Property Voucher incorporates the effects of any of these special clauses. If fixtures or improvements are involved, also check that the data package includes a Fixtures and Improvements Agreement.
8. The parcel number is shown on the lower right corner of each page of the instruments.
9. In the acknowledgment:
    a. The date is the same as or later than the date of execution.
    b. The county (and state) in which the instrument was executed is named.
    c. The acknowledging official has signed and sealed the acknowledgment, his commission has not expired, and his place of residence and commission expiration date are shown.

B. Escrow — If the transaction is to be escrowed, checks to assure that the Escrow Agreement (Form RES-337) has been prepared in accordance with Chapter 8.

C. Vouchers — Reviews all real property vouchers to assure that they have been prepared and executed in accordance with Chapter 10.

D. Data Package — Reviews the data package to verify that:
1. All needed department forms (and the proper number of copies of each) have been included in the data package.
2. If improvements or fixtures are involved in the transaction: that the data package includes a Fixtures and Improvements Agreement.
3. The Encumbrance Report on the Right of Way Acquisition Transmittal, includes all encumbrances shown on the title report and all supplementals, and that they have been cleared or provided for in the Escrow Agreement. (If the acquisition is not for highway purpose, the agent needs to clear all encumbrances including utilities as the Utilities Engineer will not be clearing any easements.)
4. The items included in the data package are in the order required.

E. Actions — The Region RESM takes the following actions:
1. If additions or corrections to the data package must be made: returns the data package to the Acquisition Agent explaining the problem and recommending a solution.
2. If the transaction is complete and correct:
    a. Posts the acquisition to the appropriate Right of Way or Sundry Site Plan.
    b. Delivers the acquisition data package to the next region review station.

6-8.4.2 Property Management Review

The procedures for property management review of the acquisition data package are given in Chapter 11.

6-8.4.3 Relocation Assistance Review

The procedures for relocation assistance review of the acquisition data package are given in Chapter 12.

6-8.4.4 Appraisal Unit Review

The procedures for the appraisal unit review of the acquisition data package are given in Chapter 4.

6-8.4.5 Computer Tracking System

The Region RESM verifies that all previous computer entries are accurate and completes entries for: the date the owner signed; the amount of compensation; the type and date of administrative settlement, if any; the date the parcel is transmitted to Headquarters — "To Right of Way Approval."

6-8.4.6 Final Region Review

Upon completion of all other steps in the region review process, the acquisition data package is reviewed by the Region RESM. If satisfactory:

A. Signs and dates the region action block of the Right of Way Parcel Transmittal.

B. Assures that one copy of the Real Property Voucher (DOT Form 262-039) is placed in the region parcel file.

C. Transmits construction memo(s) to the appropriate Project Engineer.

D. Transmits the acquisition data package to the DRES.

6-8.5 Headquarters Processing

A. All acquisition transmittals are date-stamped by the Mail Clerk and are submitted to the Title and Condemnation Program Manager for entry into computer and to check TRAINS voucher for coding and make corrections as needed.

B. All acquisition transactions are routed as follows:

1. To the Project Coordinator for notation of receipt.

2. To the Assistant Director Title and Condemnation Program who:

   a. Assures that good and sufficient title has been acquired by the state. Instruments are processed only if an approved map is on file. If the instrument does not agree with the approved plan, the instrument is placed in a "hold" status until an approved plan revision is received or the instrument is corrected to agree with the current approved plan.

   b. Posts the acquisition on the appropriate Right of Way or Sundry Site Plan using the color codes specified in Figure 6-8.5B2b. If the parcel had been previously submitted for condemnation action, prepares and dispatches to the Attorney General's Office, Memo: Stop Condemnation Request (Form RES-319).

   c. Prepares the Closing Order Worksheet. If appropriate, prepares the Escrow Transmittal Letter (Figure 6-8.5B2c), for signature of the Title and Condemnation Program Manager.

   d. Obtains signature of DRES.

Fee Instruments Warranty Deed Special Warranty Deed Quitclaim Deed (conveying fee title) Judgment and Decree of Appropriation	Red	Solid (Unbroken) line enclosing the area conveyed.
Easements Leases	Blue	Solid line enclosing the area conveyed (on blue prints, use *yellow*).
Quitclaim Deed (not conveying fee title) Release of Damages Possession and Use Agreement Order Ajud. Possession and Use Compensation Agreements Federal Declaration of Taking Permits	Red	Dashed (broken) line enclosing the area involved. (Change to solid line where final documents conveying fee title have been processed.)
Limited Access	Yellow	Solid line across the parcel at the limited access line.
Road Approach	Red	Shown as R/A at the point where access is permitted.
Contracts for Sale of State-owned Lands	Blue	Hachures across the tract (on blue prints, use *yellow*).
Conveyances of State-owned Lands	Blue	Shade in the entire area (on blue prints, use *yellow*).

Real Estate Services Acquisition Color Codes
Figure 6-8.5B2b

e. In escrow cases:

(1) Executes the Escrow Transmittal Letter and dispatches it, along with the Real Property Voucher, the TRAINS voucher and other required attachments to the Headquarters accounting office for processing of warrant.

(2) Escrow package and mails to title insurance company (escrow agent).

(3) Receives closing statement from the title insurance company, and dispatches appropriate letter to grantor verifying the state's possession date.

(4) Transmits closing documents to title company.

(5) When notified by the title company of recording and compliance with closing instructions, requests warrant from accounting.

(6) When warrant is received, mails (Certified Mail) warrant and payment letter.

f In non-escrow cases:

(1) Transmits closing orders and instruments to title insurance company that prepared the title report.

(2) Upon receipt of notice of clear title from the title insurance company, prepares appropriate letter to the grantor transmitting warrant and verifying WSDOT's possession date. Dispatches letter, the two Headquarters copies of the Real Property Voucher, and other required attachments to the Headquarters accounting office for final processing and payment.

g In the case of transmittals originating with the Attorney General (AG) (OIPU, J & D, etc):

(1) Prepares a warrant request, including request for special handling, and transmits it, the original and three copies, of the Real Property Voucher, and any secondary vouchers with supporting documentation, Determination of Value, and AG closing report (J&D's only) to the Headquarters accounting office for processing and payment.

(2) Upon receipt of warrant causes same to be hand carried to the AG section. Upon receipt of copy of AG dispatch letter to the court, prepares appropriate letter to condemnee advising of WSDOT's right of occupancy date.

(3) Transmits closing order to title insurance company that prepared the title report.

h. In all cases:

(1) Enters the closing order date into computer.

(2) Upon receipt of the WSDOT's copy of the closing order from the title insurance company indicating compliance with the state's instructions, enters date of receipt in Headquarters as clear title date into computer.

6-9 Administrative Settlement

6-9.1 General

If it is impossible to reach an agreement to purchase based upon just compensation, WSDOT:

A. Attempts acquisition by means of an administrative settlement.

B. Files condemnation proceedings (see Sections 6-10 and 6-11).

6-9.2 Rules

A. The Region RESM reviews the state of acquisitions on the project before permitting the acquisition of a parcel for an amount in excess of that given on the Determination of Value (Form RES-214) or Administrative Offer Summary (Form RES-216). Authorization to proceed with an administrative settlement is given only when it has been determined that such action will not unduly jeopardize the remaining acquisition on the project.

B. In each case, the effect of an administrative settlement upon the amount entitlement under the relocation assistance program is considered.

6-9.2.1 Authority

The authority to approve administrative settlements on parcels being acquired by the departments is as follows:

1. Unlimited settlement authority is delegated to each Regional Administrator. This authority may be further delegated. The Region is responsible for documenting any further delegation and providing evidence of that delegation to Headquarters.
2. Each settlement must be supported by adequate documentation and justification for Headquarters and for Accounting.
   a. A diary entry signed by the approving party is sufficient documentation when the settlement is $50,000 or less.
   b. A memorandum to the file, signed by the appropriate authority or authorities, must be provided to support settlements that exceed $50,000.

6-9.3 Procedures

6-9.3.1 Region Actions

A. The Acquisition Agent:

1. Makes every sincere effort to negotiate a purchase for the just compensation as listed in the Determination of Value or Administrative Offer Summary. This must at least meet the minimum negotiation requirements given in Section 6-10.
2. If all efforts to negotiate a settlement at the just compensation fail, discusses the parcel (especially: offers, owner demands, counteroffers, etc.) with the Region RESM.

B. The Region RESM:

1. Reviews the Diary of Right of Way Activities — Acquisition and weighs all factors affecting the parcel, including:
   a. Basis for owner's refusal of the WSDOT's offer.
   b. Owner's counteroffers, etc.
   c. Status of negotiations on the project, including negotiation cut-off date.
   d. Costs of condemnation.
   e. Effects upon relocation assistance program entitlements.
   f. All available appraisals, including the owner's appraisal, if any. Note that where an administrative settlement is made for cost to cure items (that were not addressed in the original AOS) and would put the parcel over the $10,000 threshold for appraisal waiver, an appraisal is required.
   g. Other pertinent factors, such as anticipated trial testimony, claim for evaluation allowance, etc.

(Use Memorandum Format)

TO: Regional Administrator

FROM: Region Real Estate Services Manager

SUBJECT: Administrative Settlement
(Project Title)
FA
CS Job Number
Parcel Number Owner (surname)
Right of Way Plan Sheet _____ of _____ Sheets

Amount of Approved Determination of Value (DV) $_____.

Amount of Proposed Administrative Settlement $_____.

Amount of Proposed Total Settlement $_____.

(This letter should contain all information needed for the settlement decision. Here are topics that should be addressed, please adjust to fit circumstances.)

1. Description of the property, take, damages, the offer:

   Describe what is happening to this property. What is the impact of the acquisition on the property, how has the offer addressed damages, and what is the property going to look like after the project.

2. Brief summary of the basis for the owner's refusal of the state's offer.

   Why isn't our offer acceptable? Be specific about what the problem is. What comparables are the owner using, appraisals that have been done, cost estimates provided, concerns about damages, etc.

3. Counteroffers and negotiations relative thereto (a copy of the diary may be sufficient).

   Discuss engineering changes, conferences with the property owner, all counter offers, how committed to this settlement is the property owner.

4. Condemnation will take additional time and money, i.e., updating for trial, pretrial, conference, staking of right of way, attorney's expenses, and witness fees (appraisers, consultants, etc.).

5. Trial risks based on experience in the particular county.

   What is the trial history in this County? Explain any recommendation made by the AAG.

6. Anticipated range of testimony on behalf of the property owner.

   What can the AAG expect from the property owner and/or witnesses at trial.

Memo: Administrative Settlement (page 1 of 2)
Figure 6-9.3.1B3

7. Explanation of the effect of the proposed settlement of any Relocation Assistance program entitlements and on any other parcel(s).

8. Detailed explanation of the justification for the administrative settlement.

   Why is this settlement justified without impugning the appraisal, engineering, etc? For example, 'the appraisal was performed 6 months ago and the market values in this area are accelerating at 1% per month' is acceptable but 'the appraisal was too low' or 'another appraiser would arrive at a different value' is not acceptable. If there will be construction savings, talk about it here.

9. Any other pertinent information and comments.

   Talk about impending Ad date, last holdout on the project, construction savings - anything you feel is pertinent that you didn't discuss above. Also, if you have a tentative agreement with the owner, that should be stated here.

Recommended By:	Approved By:
_____	_____
Region Real Estate Services Manager	Regional Administrator

Memo: Administrative Settlement (page 2of2)
Figure 6-9.3.1B3

2. May instruct the Acquisition Agent either:
   a. To submit the parcel for condemnation.
   b. Negotiate a settlement in accordance with Section 6-9.2.
3. If the administrative settlement is to be for an amount greater than that authorized to the Region RESM by this section, prepares the "Memo: Administrative Settlement" (see Figure 6-9.3.1B3), and transmits it to the Regional Administrator or delegate for approval. The memo explains the rationale for settlement to an extent consistent with the circumstances and need, the amount of money involved, and is retained as a permanent document in the file.
4. Upon receipt of the approved administrative settlement memo, transmits it to the Acquisition Agent for inclusion with the Right of Way Acquisition Transmittal, with instruction to negotiate an administrative settlement.
5. Without approval for an administrative settlement, instructs the Acquisition Agent to submit a Negotiator's Report for Condemnation.

C. The Acquisition Agent:
1. If instructed to condemn, proceeds as described in Sections 6-10 and 6-11.
2. If instructed to negotiate an administrative settlement:
   a. Notes the authorization to proceed in the Diary of Right of Way Activities and, if the administrative settlement is within the appropriate limits, obtains the signature of the appropriate authority on this diary notation.
   b. Makes an oral offer to the owners to settle for the amount of the just compensation plus the administrative settlement. Assures that the owners are aware of the effects that an administrative settlement may have upon the amount of relocation assistance entitlement and notifies the Relocation Agent.

      Note: No written offer letter is presented on an administrative settlement.
   c. If the owners accept the administrative settlement, prepares and obtains execution of the necessary instruments, vouchers, etc., as in a normal closing. Then prepares the Right of Way Parcel Transmittal and its accompanying data package as described in Section 6-8.
   d. If the owners refuse the administrative settlement, prepares the Negotiator's Report and its accompanying data package as described in Sections 6-10 and 6-11.

6-10 Condemnation, State

6-10.1 General

When title to private property, or property rights, needed for transportation purposes cannot be acquired by negotiation, the state exercises its power of eminent domain and acquires or clears the interests of all private parties by condemnation action.

The probable necessity to condemn is determined by the Region RESM when efforts to obtain a settlement with the owner have not been successful, or title cannot be conveyed to the state. The condemnation action is begun by submitting a Negotiator's Report (Form RES-320) to the Assistant DRES for review as to adequacy of negotiations and other data. If appropriate, parcels are submitted to the Attorney General, Transportation Division for court action. Upon referral of

a case to the Attorney General, all offers made by the state during negotiations are withdrawn. The Attorney General then assumes full responsibility for all aspects of the acquisition, except that settlements negotiated by the Assistant Attorney General must be coordinated with and approved by the DRES.

6-10.2 Rules

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

A. The final judgment of the court is that WSDOT cannot acquire the real property by condemnation; or

B. The condemnation proceeding is abandoned by WSDOT other than under an agreed-upon settlement; or

C. The court having jurisdiction renders a judgment in favor of the owner at least 10 percent higher than the state's 30 day offer.

6-10.2.1 In-State Owners

A. No parcel may be submitted for condemnation until the Acquisition Agent has met with the owner or owner's designee and discussed WSDOT's offer at least three times (including the meeting during which the Initial Offer Letter is presented).

   Note: Telephone calls to set up an appointment do not count as a meeting unless the owner refuses to grant an appointment and instructs the Acquisition Agent to submit the parcel for condemnation.

B. If it is impossible to make WSDOT's offer in person because the owner refuses to grant any appointments, the Acquisition Agent proceeds in the same manner as dealing with an out-of-state owner, except that a paragraph is adopted to the offer letter requesting an appointment and a chance to explain the state's offer in detail.

6-10.2.2 Out-of-State Owners

If it becomes necessary to condemn a parcel that belongs to an out-of-state owner, the Acquisition Agent sends the "Condemnation Notice" letter (see Section 6-3.) not later than the date on which the Negotiator's Report is prepared.

6-10.2.3 Exceptions

The Acquisition Agent may deviate from the rules in Section 6-10 under the following circumstances:

A. The owner (owner's attorney) rejects the state's offer and instructs the Acquisition Agent to submit the parcel for condemnation.

B. The owner is abusive and/or orders the Acquisition Agent to "get out."

6-10.2.4 Pre-Condemnation Agreements

A. Possession and Use Agreement. If, at the conclusion of negotiations, the only remaining issue is the amount of the just compensation, the Acquisition Agent attempts to obtain a Possession and Use Agreement (Form RES-317) from the owners if so directed by the Region RESM.

B. Compensation Agreement for Condemnation (Form RES-318). This instrument is for use in those circumstances where the property owner is in agreement with the state's offer of compensation, but is faced with title complications which make it impossible to convey good title, or for the Acquisition Agent to perfect the title through clearance of encumbrances. If the agreement is executed by the person or persons who appear to have the paramount claim to the property, the state will be safe in entering upon the property under the terms of the right of immediate entry contained in the agreement, even prior to the actual clearing of the title encumbrances or the entry of the judgment and decree.

C. Compensation Agreement for Condemnation shall be secured by the Acquisition Agent only at the request of the Region RESM who shall make his decision (1) upon the same criteria as to time set forth in A above and (2) consultation with the Title and Condemnation Program Manager.

D. If either of the above forms is sought and executed, it will be forwarded to Headquarters as a separate transmittal. The Negotiator's Report will be a separate transmittal which is to include a copy of the Possession and Use Agreement or Compensation Agreement and voucher(s) for the information of the Assistant Attorney General assigned to the case.

6-10.3 Procedures

6-10.3.1 Region Processing

A. If it becomes necessary to submit a parcel for condemnation, the Acquisition Agent:

1. When so instructed by the Region RESM, determines whether the owners will sign a Possession and Use Agreement or a Compensation Agreement for Condemnation as appropriate to the case.

   a. If so, prepares and obtains execution of the appropriate agreement, a Real Property Voucher, if appropriate, and all other documents normal to the acquisition.

   b. If not, notes the refusal to sign the agreement in the Diary of Right of Way Activities — Acquisition.

2. Completes the Negotiator's Report according to the instructions thereon.

   a. If operating under the critical project deviation procedure and if the owner does not accept the state's offer at the meeting at which the Initial Offer Letter is presented:

      (1) Avoids taking any coercive action by simultaneously:

         (a) Continuing the negotiations to meet the minimum requirements without notifying the owner of the critical project deviation procedure.

         (b) Preparing and submitting the Negotiator's Report, but reserving additional negotiating time by inserting in the remarks section of the report: "Under the critical project deviation procedure, negotiations will continue until _____."

      (2) If the subsequent negotiations are successful, submits a supplemental Right of Way Acquisition Transmittal as specified in Section 6-8.

      (3) If the subsequent negotiations are unsuccessful, submits a supplemental Condemnation Report at the end of the additional time.

   b. If dealing with an out-of-state owner, mails the "Condemnation Notice" (see Section 6-3) not later than the date of the Negotiator's Report.

c. If the parcel is “Registered Land” (see Section 6-5), notes that fact in the remarks section of the report.

3. Assembles the data package required for the condemnation transmittal. This data package includes at least the following in the order listed:

   3 copies (original plus 2 copies):

   a. Negotiator’s Report

   b. The Agent’s Diary of Right of Way Activities.

   c. Title report and supplementals including instruments shown in title report under special exceptions. Title report must be updated to within 30 days of transmittal to Headquarters.

   d. Approved DV’s or AOS’s and all updates.

   2 copies (original plus 1 copy):

   a. Correspondence (offer letter, letters, e-mails, memorandums). In order from most recent to oldest.

   1 copy:

   a. Right of Way plan sheets (full or half size) showing area or interest to be acquired.

   b. Proposed Real Property Voucher

   c. Copy of latest appraisal with pictures (color, if available)

   Please e-mail one copy of the proposed deed, easement, etc. to Headquarters Condemnation Title Examiner.

4. Submits the Negotiator’s Report and its accompanying data package as listed above to the Region RESM.

B. The Region RESM:

1. Contacts the owner (or owner’s attorney) and attempts to negotiate a settlement. Takes every care to avoid any charge of coercion (see Section 6-1).

   a. Completes a Diary of Right of Way Activities — Acquisition indicating the results of this contact.

   b. If a settlement is arranged, converts the data package to an Acquisition Transmittal by following the procedures given in Section 6-8.

   c. If it is not possible to arrange a settlement, adds the diary (a above) to the condemnation data package, and notes the addition in the "remarks" section of the Condemnation Report.

2. Coordinates with the Region Administrator to determine the exact procedures and routing for the region review of the Condemnation Report and its accompanying data package. As a minimum, the region processing includes: title, appraisal, and computer system. The Acquisition Agent should not be responsible for any part of the region review.

6-10.3.1.1 Title Review

The Region RESM adapts the procedures given in Section 6-8 to make a detailed review of the data package.

6-10.3.1.2 Computer Tracking System

The Region RESM inputs condemnation data into the computer tracking system.

6-10.3.1.3 Final Region Review

Upon completion of all other steps in the region review process, the condemnation data package is reviewed by the Region RESM. Upon concurrence, he signs and dates in the region action block of the Negotiator's Report, and transmits the data package to Headquarters.

6-10.3.2 Headquarters Processing

A. The Assistant Director Title and Condemnation Program:

1. Inputs appropriate data into the computer tracking system.
2. Transmits the condemnation data package to the Assistant DRES.

B. The Deputy DRES reviews the Negotiator's Report and its accompanying data package to determine whether adequate efforts to obtain a settlement were made.

1. If not, returns the package to the region for further negotiation.
2. If appropriate, returns the condemnation transmittal to the Assistant Director Title and Condemnation Program for processing.
3. If the transmittal is a "hardship" or "protective buying" condemnation, weighs all factors (e.g., nature of the hardship, state's construction schedule, etc.) and recommends to the DRES whether to proceed to immediate condemnation or to let the case await the normal acquisition schedule.

C. The DRES reviews the recommendations of the Deputy DRES, and upon concurrence, coordinates with the Region RESM:

1. If they agree on the necessity for further attempts at a negotiated or an administrative settlement, returns the file to region for action.
2. If they do not agree on the necessity for further action and/or if the parcel is a "hardship" or "protective buying" case, convenes the Administrative Review Board by conference call for its decision. Action is taken in accordance with the Administrative Review Board's decision. The DRES documents the results of the board meeting, and provides a copy to the Region RESM.
3. If the decision on a "hardship" or "protective buying" condemnation is to await the normal acquisition schedule, the DRES sends a letter to the owner advising of the decision, and directs a copy of the letter to the Region RESM.

D. The Assistant Director Title and Condemnation Program:

1. Reviews each transmittal that has been approved for condemnation processing to assure that all departmental and federal negotiation requirements have been met.
2. Prepares exhibit maps by color coding five copies of the approved Right of Way Plan to show the total before ownership and the interest (e.g., fee, easement, etc.) to be acquired. All copies are certified for use as court exhibits.
3. Checks the legal description given in the title report for the "before" ownership against the Right of Way Plan to ensure conformance.
4. Prepares a legal description of the interest to be acquired.

5. Prepares a list of all parties in interest (including: names, addresses, and instructions as to where the parties may be located for legal service). The prime source of this information is the Negotiator's Report; however, other sources (e.g., the Acquisition Agent, title report, data from adjacent parcels, etc.) are used as required.
6. Coordinates with the Assistant Attorney General as needed to determine recommendations on the makeup of blanket condemnations.
7. Groups the parcels for filing of one or more blanket condemnation actions.
8. Prepares a data package for each parcel being condemned including:
   a. Exhibit maps.
   b. Title reports.
   c. Legal description(s).
   d. List of parties in interest as defined in 5 above.
   e. Appraisal reports.
   f. Determination(s) of value.
   g. The remainder of the Negotiating Agent's data package forwarded with the Negotiator's Report.
   h. Where limited access is involved:
      (1) Copy of Resolution by Transportation Commission, and
      (2) Certificate for Findings and Order.
   i. A cover letter to the Attorney General's division requesting that the required interests be acquired by legal action. A single cover letter is used to forward all parcels grouped into a blanket condemnation pursuant to 7 above.
9. Makes the following distribution of the data packages:
   a. Attorney General, Transportation Division.
   b. Region Administrator.
   c. Headquarters parcel file.
10. Examines all Right of Way Plan revisions and supplemental title reports to determine their effects, if any, on any pending condemnation case. As a result, supplies the Attorney General, Transportation Division, with corrected descriptions, maps, l ists of interested parties, etc.
11. Upon receipt of the Memo: Stop Condemnation Request (Form RES-319) (see Section 6-8) and upon confirming that an appropriate settlement has been obtained, sends a letter to the Attorney General, Transportation Division, requesting that the parcel be deleted from the condemnation action.

6-10.3.3 Attorney General's Processing

The Assistant Attorney General who is assigned to act as the trial attorney:

A. Prepares pleadings.

B. Files the action in the superior court for the county in which the property is located, and secures a hearing date for obtaining the Order Adjudicating Public Use (OAPU).

C. Files the Lis Pendens with the County Auditor for said county.

D. Obtains the OAPU and secures a trial date.

E. In preparing the case, may obtain the services of additional or alternate expert witnesses and/or specialists by contracting for the needed services.

F. Holds a pretrial conference.

G. May continue action to effect settlement from date of assignment to case.

1. If, during the preparation of the case for trial, whether before or after filing, the trial attorney and the attorneys for the condemnee reach a basis for settlement which is greater than the reviewing appraiser's Determination of Value, the trial attorney coordinates with the Chief Counsel, Transportation Division, and the DRES for the required approvals.

2. If the basis for settlement is reached during the trial of the case, the trial attorney may secure the necessary approval by telephone during a recess by obtaining the approval of the DRES or the Deputy DRES.

3. In either case (1 or 2 above) the trial attorney may obtain possession and use under appropriate circumstances. If possession and use by WSDOT is desired and can be had by offers of payment into court, the trial attorney must obtain the same approvals indicated in 1 and 2 above if the amount to be paid exceeds the Review Appraiser's Determination of Value.

4. Having reached an approved basis of settlement in any case (1, 2, or 3 above) the trial attorney enters into an appropriate stipulation with opposing counsel for presentation to the court.

H. Depending upon the form of approved settlement, if any, that is secured pursuant to G above, takes action as follows:

1. Acquires the required interest by a Stipulated Judgment and Decree of Appropriation and complies with paragraph L below.

2. If the condemnee wishes to settle by deed rather than judgment, sends a memo to the appropriate Region RESM requesting the region conclude a settlement by deed and voucher. Such memo should include an explanation of the amount above the determination of value and who approved same.

3. Sends to the DRES conformed copies of the Stipulated Order of Immediate Possession and Use, copies of the Certificate of Immediate Possession in Condemnation (Trial Attorney's Certificate) and the AG Memo: Transmittal — P&U and Request for Warrant. If the stipulated amount varies from the DV, submits a signed memo explaining the circumstances.

I. If no agreement can be reached, proceeds with trial of the case and acquires the required interest by either a court or jury Judgment and Decree of Appropriation (J&D).

J. If an adverse verdict is received, submits recommendations for appeal to the Chief Counsel, Transportation Division, then pursues the appeal, if so directed.

K. If WSDOT does not appeal, causes the J&D to be entered.

L. Sends to the DRES five conformed copies of the J&D, and two copies of the Trial Attorney's Certificate, the Trial Attorney's closing report, and the AG Memo: Transmittal — J&D and Request for Warrant. If the J&D was reached by stipulation pursuant to Paragraph H-1 above, the closing report includes a statement of the circumstances regarding the amount in excess of the Determination of Value and the fact of approval and by whom approved.

M. If in any of the cases stated above, attorney's fees are payable in addition to the settlement, the Attorney General will initiate a voucher and warrant request to cover same and forward the voucher, warrant request and any necessary affidavits to the Accounting Division.

N. Assures that pertinent data is concurrently input into computer.

6-10.3.4 Closing

A. The Assistant Director Title and Condemnation Program:

1. Assures that:

   a. All interested parties have been named, appeared, and/or defaulted.

   b. The proper legal description was used.

   c. All necessary documents were received.

   d. All pertinent data is entered into computer.

2. Prepares and signs a Real Property Voucher made payable to the Clerk of the appropriate court in the amount of the Trial Attorney's Certificate.

3. Transmits the Real Property Voucher to the Headquarters accounting office.

4. Distributes copies of the Stipulated P&U or the J&D, and the closing report as follows:

   a. Plans Engineer.

   b. Region RESM.

   c. Negotiation files.

   d. Right of Way parcel file (with two copies of the closing report).

5. Prepares and transmits the acquisition data package for normal Headquarters processing (see Section 6-8) using the Negotiator's Report (Form RES-320).

6-11 Condemnation, Federal

6-11.1 Rules

A. Condemnation proceedings in federal court system are used:

1. Only on interstate and defense access highway projects.

2. Only when the property owner has refused the state's request for immediate possession and use.

3. Only when the Attorney General, Transportation Division, advises the Region RESM that the superior court calendar for the appropriate county precludes acquisition of the required right of way in time to meet the construction ad date.

B. All of the rules and procedures of Sections 6-10.2 (except 6-10.2.4), 6-10.3.1, and 6-10.3.2 are followed.

6-11.2 Procedures

6-11.2.1 Region Procedures

The Region RESM:

A. Prepares a letter for the signature of the Region Administrator explaining the situation and requesting the Secretary of Transportation's authorization to proceed to federal court.

B. Prepares and transmits the Negotiator's Report according to the instructions thereon.

C. Coordinates with the U.S. Region Attorney on all matters concerning the proceeding.

6-11.2.2 Headquarters Procedures

The Assistant Director, Title and Condemnation Program:

A. Coordinates with the Project Engineer to obtain accurate exhibit maps as required for the federal court. The federal court requirements include:

1. Color-coded Right of Way Plan sheet(s) for each parcel.
2. Legend on each sheet (as to meaning of symbols employed).
3. Parcel number within the right of way boundaries.
4. A known monument shown on each sheet.
5. Metes and bounds delineation of the part taken expressed completely on the face of the plan.
6. Vicinity map on each sheet showing entire ownership.
7. Distances expressed in hundredths of a foot (or meters if plan is metric).
8. Areas expressed in thousands of an acre (or hectares if plan is metric).
9. Deputy Secretary's signature and seal.

B. Prepares a legal description of the acquisition that agrees with the delineation on the exhibit map.

C. Coordinates with the FHWA to obtain their preliminary approval of the state's:

1. Exhibit maps.
2. Legal description.
3. Appraisals.

D. Submits legal description and orders federal form title insurance reports from the title insurance company — the amount of the insurance being the amount of the FHWA-approved preliminary appraisal.

E. Coordinates with Photogrammetry to obtain aerial photographs of the area involved as close to the date of the Declaration of Taking as the weather permits.

F. Coordinates with the U.S. Region Attorney as needed to obtain additional appraisals, plans etc. Assures compliance with the requirements of Section 1-22.

G. Prepares, coordinates and submits through channels a data package containing:

1. A letter to the U.S. Department of Transportation signed by the Secretary of Transportation including:

   a. The justification for the federal acquisition of the lands or interests in lands.

   b. The date FHWA authorized WSDOT to commence right of way acquisition, the date the project was advanced to Stage 2 program status, the date of the project agreement and a statement that the agreement contains the provisions required by Sections 108(a), 108(b), and 111 of Title 23, U.S.C.

   c. The necessity for acquisition of the particular lands under request.

d. A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access.

e. WSDOT's intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition.

f. A statement on compliance with the provisions of 23 CFR Part 771 relating to environmental concerns.

g. Adequate legal descriptions, plats, appraisals, and title data.

h. An outline of the negotiations which have been conducted by the agency with landowners.

i. An agreement that WSDOT will pay its pro rata share of costs.

j. A statement that assures compliance with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.) and amendments thereto.

2. A letter to the FHWA Division Engineer signed by the DRES transmitting the following:

a. Transmittal letter to the Federal Director.

b. Title page, for each blanket or single case.

c. The following items for each parcel:

(1) Negotiator's reports.

(2) Diary of Right of Way Activities.

(3) Exhibit maps (10 copies).

(4) Legal description (10 copies).

(5) Appraisal reports and DV's (five copies).

(6) Federal form title certificates (five copies).

(7) Schedule "A" showing:

(a) Parcel number.

(b) Owners.

(c) Owner's addresses.

(d) Estimated just compensation.

(e) Legal description.

(8) Scheduled ad date.

(9) Statement of the state's inability to acquire in state court in time for contract advertising.

(10) Statement of access control.

Note: Extra copies of the data package are prepared in case of eventual need.

H. Checks and accepts the deed(s) from the USA to the state. Each deed is processed for posting and recordation as specified in Section 6-8.

6-12 Authorization of Acquisition

6-12.1 General

The following sections outline the requirements which must be met before acquisition of real property required for transportation purposes can be accomplished. The requirements listed are the end-products of many procedures covered elsewhere in the manual and other departmental and federal publications which can be assumed to have been properly accomplished in producing the end-products (Ref: Chapter 1). Where special procedures are required because of the nature of the acquisition, specific details that vary from the norm are set forth.

6-12.1.1 Rules

The following end-products are required before acquisition of real property needed for transportation purposes is authorized:

A. Approved Right of Way Plan which may vary in name depending upon the scope of the authorized work.

B. Work Order Accounting Plan which states the scope of the authorized work, and provides information concerning funds with which to pay for the work.

Note: The type/name of right of way map referred to in Rule A and the scope of work authorized by the Work Order Accounting Plan (Rule B) are generally linked together as "phases" in accordance with Figure 6-12.1.1B.

6-12.1.2 Normal Acquisition Procedures

A. Having received the end-products referred to above, the Region RESM is authorized to proceed with the specified acquisitions (or appraisals) of the right of way in accordance with the provisions of this chapter and Chapter 4 using available staff.

B. No offer to acquire any parcel may be made until an approved Determination of Value (DV) or administrative offer is available to the Acquisition Agent.

6-12.2 Acquisition in Advance of NEPA Clearance

There are four circumstances under which right of way can be acquired in advance of NEPA clearance:

1. The state may use its own funds to purchase right of way prior to NEPA clearance and may apply the purchase price (or if donated, the fair market value) toward their share of project costs, as long as they meet the requirements of 23 CFR 710.501(b). They cannot be reimbursed for these costs, however.

   When the project is funded and credit is sought, the state must certify to FHWA that the property:

   a. Was lawfully obtained.

   b. Was incorporated into the project.

   c. Was not 4(F).

   d. Did not influence the selection of an alternative.

   Evidence must be provided to support the current fair market value of the property (appraisal or A.O.S., etc.) or in exceptional circumstances and with approval of FHWA, the original purchase price of the property (closing statements, etc.).

Phase #	Map Type/Name	Work Authorized
1	Access Report Plan	Appraisal of total takes no acquisition.
2	Access Hearing Plan (w/o complete R/W info)	Appraisal of partial takes where necessary data is available to appraiser although not on plan. Acquisition of total takes no appraisals in controversial areas subject to change at hearing.*
2A	Access Hearing Plan (w/complete R/W info)	All appraisals.* All acquisitions.* No appraisals or acquisitions in controversial areas subject to change at hearing. No appraisal or acquisition of partial takes if federal design hearing requirements are incomplete.*
3	Findings and Order Plan (w/o complete R/W info)	Same as Phase 2.
4	Final Right of Way Play	All appraisals.* All acquisitions.*

*If appeal period not completed, delay action in areas of controversy and possible appeal.

Outline of Acquisition Phases
Figure 6-12.1.1B

2. The state may use its own funds to purchase right of way prior to NEPA clearance and be reimbursed. However, they must meet the very stringent requirements of 23 U.S.C. 108(c)(2)(c&d), as explained in 23 CFR 710.501(c). This option (which requires the Governor's and EPA's sign-offs) will be seldom used.
3. The state may purchase right of way prior to NEPA clearance under the protective buying and hardship acquisition provisions, as per 23 CFR 710.503, and be reimbursed. Note, however, that while these purchases are in advance of formal NEPA clearance of the project, individual clearance via a Categorical Exclusion is required. Consequently, although the project has not yet been cleared, the individual parcels have been cleared.
4. The state may purchase right of way prior to NEPA clearance under the corridor preservation provisions of 23 CFR 630.106(3)&(4) and be reimbursed. This process is similar to the process for protective buying (see 3 above). Generally, this is only done for parcels, which will not require any displacement. Note, however, that as with hardship and protective buying, these purchases are in advance of formal NEPA clearance of the project and individual clearance via a Categorical Exclusion is required.

In order to maintain eligibility for federal aid reimbursement, all requests for hardship, protective purchase, and/or corridor preservation must be routed through the DRES for FHWA approval.

6-12.3 Advance Acquisition With State Advance Acquisition Revolving Fund

A project may be acquired by these advance acquisition procedures when it is deemed beneficial to the state to do so (Ref: WSDOT Publication D 26-40 and Section 6-12.3 for "hardship" acquisition.)

6-12.3.1 Rules

1. An Advance Right of Way Acquisition Committee established to review, evaluate, and prioritize, properties recommended for acquisition through the state Advance Acquisition Revolving Fund shall consist of:
   a. Director, Real Estate Services (Chair)
   b. State Design Engineer
   c. Director of Program Management
   d. One Region Administrator chosen in the following manner:

      Any proposal submitted by a Region Administrator from an Eastern Washington region shall be reviewed by a Region Administrator selected on a rotating basis from a Western Washington region and vice versa.
2. The Region Administrators shall identify properties in their regions and submit them to be considered for advance acquisition. Any property or property rights to be purchased with the state fund must be designated highway transportation corridors and be for projects approved by the Transportation Commission as part of the state's six-year plan (current published Highway and Marine Construction Program) or included in the state's route development planning effort. The request documents shall include but shall not be limited to the current cost to acquire the property, future projected costs, what construction or other private improvement is currently being planned for the property, the estimated savings including relocation assistance and demolition costs, and the estimated time when the parcel will be incorporated into a project. Such state funded acquisitions shall generally not be more than ten years in advance of programmed construction.

3. The Committee will review the submittals and generally respond within five working days, provided that complete information is supplied.
4. A decision by the Committee may be appealed to the Director for Environmental and Engineering Programs.
5. At the end of each biennium, the Director, Real Estate Services, shall prepare a report for the department to submit to the legislature and to the Office of Financial Management. The report shall describe:
   a. Properties which were purchased with monies from the state Advance Acquisition Revolving Fund and why;
   b. Expenditures for the acquired parcels; and
   c. Estimated savings to the state.
6. Because of the limited amount of funding available, the state's advance acquisition revolving fund will generally be used only on state funded projects.
7. The right of eminent domain will generally not be used for parcels purchased with revolving funds.
8. Properties considered for advance purchase include properties on which there is a known plan for major private development or a property offered for sale that is located within an area of rapid commercial, industrial, or residential development. Major development should include industrial or commercial construction, large apartment or condominium complexes, or a proposed subdivision of property.
9. There must be a high degree of certainty the property will be needed for a proposed highway project. The property should be needed in the majority of project construction options, including the preferred alternative if one has been identified.
10. Projected needs would normally require the use of a major portion, or all, of the property.
11. Efforts should be made to work with local agencies in controlling development or obtaining developer right of way donations where additional strips of property may be needed for future widening projects.
12. Acquisitions of total ownerships will not require mapping. Acquisitions of less than total ownerships will require a sufficient amount of design work and mapping to assure acquisition of appropriate right of way.
13. The Committee will evaluate, prioritize, and approve requests for use of the state revolving fund. For effective use of the revolving fund, properties must be evaluated for savings realized in the acquisition and for the speed with which the property will be incorporated into a funded project and the monies can be used for additional advance acquisitions. As a basis of comparison, with projects given more points having greater priority, the following point system may be used:

    The estimated future acquisition cost including the value of any proposed private construction (improvements) plus the estimated potential relocation costs shall be divided by the current value of the vacant parcel. The result shall be multiplied by 100 then adjusted downward 50 points per year for the third and all subsequent years between purchase and repayment to the revolving fund.

For example:

FAC	=	Future acquisition costs
PRC	=	Potential relocation costs
CV	=	Current value
YR	=	Count only the third and each subsequent year between purchase and repayment

$$\frac{FAC + PRC}{CV} \times 100 - 50 \text{ for each yr} = \text{rating}$$

6-12.3.2 Advance Acquisition

Region RES Manager Procedures

1. Identifies properties that are potential candidates for advance acquisition.
2. Obtains supporting and appraisal data.
3. Submits completed request to DRES (see Figure 6-12.2.3.3 for sample transmittal document).

Committee Chair

4. Designates a Region Administrator to serve with the three permanent Committee members.
5. Checks submittal for completeness, obtains additional information when needed.
6. Verifies that request meets criteria for state funded advance acquisition.
7. Establishes a point rating for the property under consideration.

Committee

8. Reviews balance of, and cash flow into, revolving fund. Reviews project schedules and schedule changes which will affect any properties purchased in advance.
9. Approves or rejects the request.

Region RES Manager

10. Concurs or appeals decision.

Director for Environmental and Engineering Programs

11. If appeal is entered, hears and decides appeals.

Region

12. Initiates purchasing actions.

6-12.4 "Hardship" Acquisition and Protective Buying

A. A parcel may be acquired by "hardship" acquisition procedures if such purchase will alleviate a department created hardship situation for a property owner (see Chapter 1 and this chapter, Advanced Acquisition, Section 6-12).

B. "Hardship" acquisition envisions hardship occasioned or complicated by the impact of the potential transportation project. Such hardship is in contrast to others because of an inability to sell the property through normal market channels. "Others" (in the context just stated) are considered to be those not impacted by the project or those impacted by the project but not suffering particular hardship as a result of the impact.

C. Authorization of "hardship" acquisitions is premised on reasonable and supportable justification of the action. This type of acquisition is approved with discretion and only after the justification clearly demonstrates that the acquisition is necessary to alleviate particular hardship to a property owner.

D. Authorization of protective buying is appropriate when deemed to benefit the state.

6-12.4.1 Rules

A. "Hardship" acquisition and protective buying procedures may be exercised within the limits of the proposed transportation corridor and may be authorized following the corridor (i.e., location) public hearing.

B. "Hardship" acquisition procedures may be authorized on a parcel by parcel basis where it is shown that all of the following are applicable:

1. The owner's circumstances constitute an emergency substantially as described in one or more of the "Emergency Criteria" following.
2. The case qualifies as described in the list of "hardship" qualifications following.
3. The acquisition is necessary to alleviate the particular hardship to the property owner.

C. Protective buying procedures (6-12.4.3) may be authorized on a parcel by parcel basis where it is shown that either:

1. The acquisition is necessary to prevent **imminent** development and increased costs of the parcel which would tend to limit the choice of transportation alternatives.
2. The expense incurred by the state in the advance purchase of said property is justified by the projected savings. Reasonably anticipated revenue to the state from interim uses of the property may be considered in estimating net expenses of such acquisitions.

D. If the property lies within a project with known terminal limits but which has not been programmed, the region may submit the case documentation together with programming data (including estimate of the cost of the entire right of way project). The project may then be programmed as a Stage 1 or 2 right of way project, and funds set up only for the acquisitions requested.

6-12.4.1.1 Emergency Criteria

Emergency criteria exists when an owner:

A. Needs to move immediately because of a change in location of employment.

B. Is advised by a licensed physician to move from the area for reasons of health.

C. Has made a legal commitment (e.g., an earnest money agreement, etc.) to purchase alternate property. Please note that this action may jeopardize the owner's eligibility for relocation assistance entitlements (see Chapter 12) depending upon timing.

D. Has encountered legal or business circumstances requiring divestiture of title to the subject property.

E. Is required to make substantial capital improvements (e.g., new equipment for a factory) in order to continue use of the subject property, and these capital improvements would be financially unsound in view of the pending transportation project.

(Use Memorandum Format)

TO: Director, Real Estate Services

FROM: Region Administrator

SUBJECT: Advance Right of Way
Acquisition Committee
Parcel Prioritization Request

The parcel known as _____ is submitted for committee review and commitment of state advance acquisition revolving funds for acquisition. In support of this request, we are providing the following information:

1. Statement of Request

   a. An Executive Summary of all the relevant information regarding the proposed right of way project including the current stage of project design and review, the project's effect on subject parcel, and the scheduled or most probable date that right of way acquisition funding would normally be approved.

   b. A brief description of the parcel's neighborhood and of development trends affecting it.

   c. A brief explanation of the current proposal to develop this parcel or neighborhood trends likely to result in a specific development in the near future.

   d. Other data pertinent to this request.

2. Assessor's Map showing the parcel and surrounding area.

3. Short Form Appraisal and Determination of Value for the parcel establishing its current value.

4. Appraiser's Estimate of Parcel's Value on the date that normal project funding is expected (see 1-A) and assuming that expected development has taken place as discussed in 1-C above.

5. Estimate of Relocation Costs based on any current relocation obligations and also an estimate of relocation costs at the future acquisition date assuming full development and occupancy of the parcel.

6. Other Material and correspondence that the region feels is pertinent.

Sample Revolving Fund Request
Figure 6-12.2.3.3

6-12.4.1.2 Hardship Qualifications

Hardship qualifications require that the case meets all of the following conditions:

A. The owner initiates the application for hardship acquisition.

B. The application is in writing and sets forth the exact circumstances creating the hardship.

C. The only appropriate action for the owner is the immediate sale of the subject property.

D. Because of the pending transportation project, the owner is unable to sell the subject property on the open market at its market value.

6-12.4.2 Hardship Acquisition Procedures

A. The Region Administrator determines the status of transportation project location activities potentially affecting the parcel and refers appropriate requests to the Region RESM.

B. The Region RESM:

1. Assures that information regarding right of way acquisition procedures and relocation assistance entitlements and procedures is made available at public hearings as specified in Sections 6-2 and 12-2.

2. Determines that the ownership is within the limits of the proposed transportation corridor.

3. Sends a letter to the property owner acknowledging receipt of the application, and advising the owner of the approximate processing time.

4. Evaluates the application for hardship acquisition to assure that it meets the criteria specified above.

5. Prepares the following data package:

   a. A report covering a field investigation of the application.

      Note: This report either confirms or refutes the hardship alleged in the acquisition application letter; includes the Region RESM recommendations; documents necessary factors for full coverage of the three elements described above.

   b. The Relocation Assistance Program Plan (including tenants and owners).

   c. The Project Funding Estimate (see Chapter 4) for the parcel(s) prominently identified as "Hardship Acquisition" and showing: the name of the owner, the parcel number, the estimated cost of the parcel, a breakdown of the five right of way groups, a breakdown of urban and rural (if applicable), and the number of individuals, families, businesses, etc., displaced. If the parcel is concurrently affected by more than one project, the breakdown is allocated to each project.

   d. The title report for each hardship parcel.

C. Further processing and authorization is accomplished in compliance with Chapter 1.

D. Upon receipt of the Work Order Accounting Plan, the Region Administrator notifies the Region RESM to proceed with the hardship parcel acquisitions on an expedited basis.

E. Using the procedures of this chapter, the Region RESM expedites further region processing of the hardship parcels.

6-12.4.3 Protective Buying Procedures

With input from the Region Project Development Engineer, the Real Estate Services Manager will evaluate the potential benefits of purchasing property available on the open market to protect it from potential development for a future WSDOT project.

Provided funding is available, the Region RESM acquires the property using normal procedures.

6-12.5 Functional Replacement of Publicly-Owned Real Property

6-12.5.1 General

A. Occasionally it is necessary to acquire publicly-owned, special use properties; e.g., a school, fire station, etc. Generally, just compensation for such special use properties cannot be found by use of the common market value approach. Instead, just compensation for such properties may be measured by the cost of replacing the property with one that is functionally equal to the acquired property. Hence, if a fire station is being acquired, the just compensation for the fire station may be the cost of sufficient land in an equally suitable location upon which to build a replacement plus the amount necessary to construct a new fire station thereon. Functional replacement is limited to replacement of acquired lands and facilities with functionally equivalent lands and facilities. To qualify for reimbursement from FHWA, if there are federal funds in the right of way acquisition, FHWA must approve.

B. Although the state of Washington has no specific case or statute law covering functional replacement, the principle of substitution and the provisions of RCW 47.12.040 and 47.12.150 are relied upon.

6-12.5.2 Rules

A. Cases that require functional replacement are identified as early as possible in the location and design stage so that they can be included in the environmental impact studies and addressed following plan development.

B. Functional replacement may be authorized under the following conditions:

1. The property to be functionally replaced is in public ownership (except that properties owned by railroads, utilities and the federal government are ineligible).
2. The functional replacement actually takes place, and the costs of replacement are actually incurred.
3. The replacement site and construction thereon are in compliance with existing codes, laws, and zoning regulations.
4. Functional replacement costs include:
   a. The actual cost of providing a replacement facility having the same functional capabilities; and
   b. Either of the following:
      (1) The appraised current market value of the land to be acquired for transportation purposes, where the owning agency has other lands on which to relocate the facilities; or
      (2) The reasonable cost of acquiring a functionally equivalent substitute site where lands in the same public ownership are not available or suitable.

5. Costs chargeable to increases in capacity and other betterments are not eligible, except:
   a. Those necessary to replace utility.
   b. Those required by existing codes, laws, and zoning regulations.
   c. Those related to reasonable prevailing standards for the type of facility being replaced.
6. If the appraised market value of the property to be acquired exceeds the cost of functional replacement, the market value may be paid.

C. To be eligible for functional replacement, publicly-owned real property actually must be in a specific use. For example: lands which are in actual use as a public park would be eligible; however, undeveloped lands which are being held for future park use normally would not be eligible.

D. Eligibility for functional replacement of a Volunteer Fire Department (VFD) is determined on a case by case basis. Authorization to permit functional replacement may be obtained if the state's file clearly shows that:

1. The VFD's facilities are devoted strictly to public use and are serving a public need which would otherwise have to be provided if the subject facility did not exist.
2. The VFD's facilities are physically unique. Facilities do not qualify if they are of a type that is found in the normal market.
3. The VFD has clear title to the land and the facilities on the land.

   Note: The functional replacement concept may independently apply to owned improvements if they are on land that is not owned by the VFD. Title to land and/or facilities may be cleared by the VFD if it is desirable to qualify for functional replacement where all other conditions are met.
4. The VFD agrees to follow a nondiscriminatory policy consistent with Title VI of the Civil Rights Act of 1964 and 23USC 324 with regard to race, color, national origin, and sex, and to amend, revise, or modify any existing charter, bylaws, deed restrictions, etc. to that end.

6-12.5.3 Procedures

A. The Region RESM:

1. In the advance planning design or access and right of way phase, identifies real properties that are in public ownership and which may qualify for functional replacement.
2. Subject to appropriate authority from the Region Administrator, meets with officials of the owning agency to discuss the effects of the proposed acquisition and the potential for application of functional replacement procedures, and:
   a. Establishes a parcel file for the case by taking the actions specified in Section 6-2, and assures that file includes a Diary of Right of Way Activities — Acquisition and a Functional Replacement Checklist, Figure 6-12.5.3A2a.
   b. Offers to have property valuation made on both market value and functional replacement bases.

c. Allows owning agency to select valuation method(s).

Note: A market value appraisal and Determination of Value (DV) are made in every case except when the owning agency specifically waives its right to have its property appraised.

3. Reports the results of discussions and decisions concerning functional replacement to the Region Administrator for inclusion in environmental impact statements, etc., if required on a project.

4. Assures that appropriate instructions are given to appraisers, specialists, and review appraisers (see Chapters 4 and 5).

   Note: Appraisal and DV on both the market value and the functional replacement premise may be required.

5. If the owning agency has indicated that it elects functional replacement, verifies that the owning agency has submitted a letter (addressed to the Region Administrator) formally requesting functional replacement, fully explaining why such replacement would be in the public interest, and, if it so elects, waiving its right to have its property appraised.

6. Submits to the DRES:

   a. Cost estimate data showing comparative costs. A suggested format is given in Figure 6-12.5.3A6a.

   b. A Memorandum covering:

      (1) Tentative agreements reached with the owning agency.

      (2) Justification for functional replacement.

      (3) Assurance that all replacement property will be acquired in compliance with all state and federal regulations concerning acquisition and relocation assistance.

   c. The owning agency's letter requesting functional replacement.

   d. Any other pertinent data.

Functional Replacement of Publicly-Owned Real Property — Checklist

(Parcel and Project Identification)

I. Conceptual Approval

Yes No

___ ___ A. The property is in public ownership.

___ ___ B. There is a physical taking from the property.

___ ___ C. Adequate coverage has been given to functional replacement in the project planning documents such as those specified in D 33-30 (PP), Environmental Quality.

___ ___ D. WSDOT representatives have met with the owning agency and have discussed the effects of acquisition and potential application of functional replacement procedures.

Date

_____ E. Conceptual agreement obtained from the Director for Environmental and Engineering Programs.

II. Formal Concurrence and Authorization to Proceed

Date

_____ A. WSDOT offers the market value to the owning agency, or the agency waives this right.

_____ B. The owning agency formally requests that WSDOT proceed with functional replacement.

_____ C. The Director for Environmental and Engineering Programs formally agrees that functional replacement is necessary and is in the public interest.

_____ D. If applicable, WSDOT has prepared an acceptable environment impact statement and Relocation Plan pertaining to the replacement site.

_____ E. The region submitted to Headquarters a formal request for concurrence, including:

1. Cost estimate data.
2. Tentative agreements reached between WSDOT and the owning agency.
3. A statement that the replacement property will be acquired in accordance with the provisions of all applicable state and federal regulations concerning acquisition and relocation assistance.
4. A machine copy of the *Diary of Right of Way Activities — Acquisition* showing all activity to date.

_____ F. Formal concurrence that functional replacement is in the public interest, and authorization for the region to proceed with PS&E for the replacement facility and the acquisition of the replacement site was received from the Director for Environmental and Engineering Programs.

Note: The Director, Real Estate Services, takes action as appropriate to obtain FHWA approval or concurrence if participation of federal funds is desired in any part of the right of way costs of the project.

Functional Replacement of Publicly-Owned Real Property Checklist (page 1 of 2)
Figure 6-12.5.3A2a

III. Review and Approval of PS&E

Yes No

___ ___ A. Submission provides for departmental inspection during construction of the replacement facility.

___ ___ B. There replacement site and construction are in compliance with all existing codes, laws, zoning regulations, etc., for the area in which the facility is located.

___ ___ C. Increases in capacity and other betterments not necessary to replace utility and unrelated to reasonable prevailing standards for the type of facility being replaced:

1. Have been identified.
2. Have not been included as eligible for federal funds.

___ ___ D. Provisions for advertising for bids and letting of construction contracts are acceptable to the Director for Environmental and Engineering Programs.

Date

_____ E. The Director for Environmental and Engineering Programs formally approves the PS&E.

IV. Concurrence to Award

Yes No

___ ___ A. A formal agreement has been entered into between the owning agency and WSDOT, setting forth the rights, obligations and duties of each party with regard to the facility being acquired, the acquisition of the replacement site, the conveyance of the lands required for highway purposes, and the construction of the replacement facility. The executed agreement sets forth how costs of the new facility are to be shared between the parties.

Date

_____ B. Formal concurrence in the award for actual construction is received from the Director for Environmental and Engineering Programs.

V. Release From Further Responsibility

Yes No

___ ___ A. If substitute lands were acquired in the name of the state, conveyance of the substitute lands to the agency has been accepted. Date _____.

___ ___ B. Conveyance to the state of the lands required for highway purposes has been accepted. Date _____ _____.

___ ___ C. A statement is placed in the parcel file, signed by an appropriate official of the owning agency and the department, certifying that the cost of the replacement facility has actually been insured in accordance with the provisions of the executed agreement, that a final inspection of the facility was made by the department and the owning agency, and that the department is released from any further responsibility.

Note: The Director, Real Estate Services, takes action as appropriate to obtain FHWA approval or concurrence if participation of federal funds is desired in any part of the right of way costs of the project.

Functional Replacement of Publicly-Owned Real Property Checklist (page 2 of 2)
Figure 6-12.5.3A2a

B. The DRES:

1. Reviews the submittal from the Region RESM.
2. If federal funds are to participate, prepares and transmits a letter (over the signature of the Director for Environmental and Engineering Programs) to the FHWA, Division Administrator including:
   a. A request for FHWA concurrence in functional replacement.
   b. A request for FHWA authorization to proceed with the acquisition of a substitute site, the physical construction of minor site improvements, and the preparation of PS&E for major site improvements.
   c. Appropriate additional data received from region.
3. Upon verification from FHWA that functional replacement is in the best interest of the state, notifies the Region Administrator. Such verification stems from the approval of the Director for Environmental and Engineering Programs when federal participation is not involved.

   Note: When required, PS&E for major site improvements are prepared by the owner of the improvements being replaced and submitted for FHWA review and approval. Costs of PS&E preparation are normally reimbursable under functional replacement.

C. The Region RESM:

1. Obtains execution by the appropriate officials of the owning agency of a formal agreement which sets forth:
   a. The rights, obligations and duties of each party with regard to the facility being acquired; the acquisition of the replacement site, specifying how the agencies name is to appear on acquisition.
   b. How the costs of the new facility are to be shared between the parties.
2. Proceeds with the acquisition of the substitute site, if appropriate, in the name of the party specified in the agreement (C.l. above).
3. Submits proposed PS&E for the functional replacement to the DRES, if required.
4. Submits the agreement to the DRES for execution.

D. The DRES:

1. Reviews the agreement and executes it for the state of Washington.
2. If federal funds are to participate, submits the executed agreement to the FHWA together with a letter requesting FHWA concurrence.
3. Notifies the Region RESM upon receipt of FHWA concurrence.

E. Upon completion of construction, the Region RESM:

1. Makes a joint final inspection of the replacement facility with the appropriate representatives of the owning agency.
2. Verifies that the conveyance from the agency to the state of the lands required for highway purposes has been accepted by the state.
3. If appropriate, submits voucher for any costs, e.g., relocation assistance, due to the agency pursuant to the agreement (C.l. above).

4. Obtains a statement from the appropriate officials of the owning agency that:
   a. The costs of the replacement facility have actually been incurred in accordance with the provisions of the executed agreement.
   b. A final inspection of the replacement facility has been made by both parties.
   c. The Department of Transportation is released from any further responsibilities.

(Project and Parcel Identification)

Functional Replacement Costs Analysis

Cost Items	Acquisition Based on Market Value Concept	Cost to Acquire Substitute Property
Land	$_____	_____
Buildings	_____	_____
Facilities	_____	_____
Damages	_____	_____
Moving Costs	_____	_____
Replacement Housing	_____	_____
Other Items	_____	_____
		$_____
Total	$_____	

	Cost to Cure or Functionally Replace
Buildings	$_____
Facilities	_____
Other Items	_____
	+_____
	$_____

	Nonparticipating Items (Betterments)
(Identify Items)	$_____
	_____
	_____
	–_____
Total	$_____

Note: Exact breakdowns need not be given if property estimates are appropriate. Moving costs, replacement housing, and incidental expenses may be based on average or percentages similar to estimates.

Authorization of Acquisition

Figure 6-12.5.3A6a

Chapter 7 Title Information

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7-1 General

A. Evidence of the ownership of, or of an interest in the title to real property, is found in the records of the county in which the property is located. Public records affecting title are maintained by the county's assessor, auditor, clerk, registrar, and treasurer. Ownership records are also maintained by all title insurance company offices in each county.

B. Generally, the state requires fee simple title to lands acquired for right of way purposes. Grantor's retention of reversionary rights is not acceptable in most cases.

C. Although the "Contracts for Title Evidence" vary somewhat as to fees, delivery schedules, etc., each provides that the state receive Preliminary Commitments for Title Insurance (PC) and any necessary Supplemental (SPC) for its acquisition information needs, and an ALTA owner's Standard Form Policy of Title Insurance insuring the Washington State Department of Transportation's (WSDOT) acquisition. For specific provisions, refer to the appropriate title contract.

D. Since it is less expensive to obtain insured titles from the local title industry than it is to use staff personnel to conduct title searches, WSDOT uses the services of the title insurance companies almost exclusively. Only in an emergency situation are staff personnel used to conduct title searches. One provision of the contracts is that WSDOT may secure sundry title services such as copies of maps, copies of instruments, ownership information, etc., for a specified charge which, along with other charges, will be billed to WSDOT.

E. In Headquarters, title work is performed under the supervision of the Assistant Director of the Title and Condemnation Program. In the larger regions, title work is performed under the supervision of the Region Real Estate Services Manager (RESM) and when necessary is assisted by the Assistant Director of the Title and Condemnation Program (see Chapter 2).

7-2 Title Functions — Region

7-2.1 General

The following sections describe title functions which are normally performed in the region. The Region RESM is responsible for the performance of these title functions and may delegate these duties to members of his staff as appropriate. The Region RESM coordinates with the Assistant Director of the Title and Condemnation Program on any special problems.

7-2.2 Location

The Region RESM:

A. Upon receipt of maps or property descriptions from the Plans Branch, places an order for title reports.

1. The order is placed with a title company insuring in the county in which the project is located.

2. Title orders are normally placed with the title company on a rotational basis; however, this is balanced against the company's ability to deliver to the department's time requirements and company's ability to deliver accurate work. At times of large orders (20 or more parcels), it may be necessary to balance the orders between several title companies.

3. Upon assurance that the title company is prepared to meet the project's time schedule, places the order as provided in the contract.

B. Upon receipt of title reports, determines whether all properties within the limits of the proposed project have been covered.

1. Contacts the title company to correct any duplications, omissions, or discrepancies.
2. When the field survey (by the Plans Branch) does not agree with the descriptions on the title reports, coordinates with the project engineer and contacts the title company and/or the county or city engineer's office to determine the legal status of the questioned property. Advises the Plans Branch on problems concerning the legal status of vacated streets or other questioned property.
3. Acts as liaison between the Plans Branch and the title company.

C. Confirms that the title company's bill is for the services provided, assures it meets contract requirements, and prepares *Voucher Distribution* for payment.

D. Coordinates with the project manager on real estate matters bearing on interdisciplinary team activities, such as: ownership, contiguous properties, taxing districts, assessing districts, water rights, mineral rights, timber cruises, public recreation sites and access, etc.

7-2.3 Right of Way Plans — Special Distribution

The Region RESM:

A. At the time negotiations are to begin, furnishes informational copies of approved *Right of Way Plans* to:

1. Each title company doing business in that county.
2. The county assessor.
3. The county engineer.

B. Distributes any subsequent map revision resulting in a change to parcel definition as in A, above.

7-2.4 Acquisition

The Region RESM:

A. Maintains and updates title reports. Each title report consists of a PC and all necessary SPCs, all of which are prepared as specified in the contract.

B. Reviews the title reports with the Acquisition Agent as required, and advises the Acquisition Agent on techniques for clearing encumbrances.

C. Orders SPCs as needed.

D. Drafts complex legal descriptions and/or assists the Acquisition Agent in drafting them.

E. Coordinates with the Assistant Director of the Title and Condemnation Program on *Right of Way Manual* interpretations as needed.

F. Reviews all acquisition or condemnation transmittals as described in Chapter 6.

G. Assures that the title company's bills for supplemental, and full value title policies meet the requirements of the contract and prepares *Voucher Distribution* (DOT Form 134-128) for payment. As to those acquisitions which are to be closed in escrow, verifies that the correct escrow fee plus sales tax has been added to the acquisition voucher. When acquisitions are

subject to unusual or abnormal title risks, with the concurrence of the Assistant Director of the Title and Condemnation Program, provide for the ordering of full value title insurance. The title insurance company bills the region for the appropriate premium after closing as specified in Chapter 6. The bill is verified for correctness and paid as specified in Chapter 10.

7-2.5 Assistant Attorney General, Department of Transportation — Liaison

The Region RESM:

A. Using the procedures specified in the appropriate contract, obtains title evidence for the use of the Assistant Attorney General, WSDOT, in inverse condemnation proceedings and on damage claims in accordance with Chapter 6.

B. When (on interstate projects only) condemnation proceedings are to be filed in the federal court, obtains federal form certificates as specified in the contracts.

C. Compiles data on legal descriptions and parties defendant as requested by the Assistant Attorney General, WSDOT.

D. Makes specific note of any toxic/hazardous situations that will need to be addressed by the Attorney Generals Office (AGO).

E. Submits requests for any needed legal opinion to the Director, Real Estate Services (DRES), for coordination with the Assistant Attorney General, WSDOT, and other regions.

7-3 Title Functions — Headquarters

7-3.1 Acquisition Transmittal

The Assistant Director of the Title and Condemnation Program:

A. Pre-Audit

1. Reviews voucher to assure completeness and accuracy of data and amounts.
2. Checks billing data to assure amounts are charged to the correct accounts and that nonparticipating payments are correctly shown.
3. Reviews file for compliance with negotiations, appraisal, property management, and relocation requirements. If problems are found, refer the file to the appropriate section for correction.
4. Inputs required data into the computer system.

B. Examination and Posting

1. Examines complete file for compliance with state laws and WSDOT policies and procedures.
2. Examines legal descriptions for completeness, accuracy, and conformity with *Right of Way Plan* requirements.
3. Examines documents to assure that all interested parties have signed and that all encumbrances have been released or otherwise provided for.
4. When errors and/or omissions are found, returns file to region office with instructions for appropriate corrective actions.
5. Prepares closing order, escrow closing, and letter instructions for typing as appropriate.
6. Posts documents to plan sheets.

7. Forwards file to DRES for acceptance of documents and approval of voucher for payment.
8. Inputs required data into the computer system.

C. Closing

1. Sends closing instructions and documents to title company and/or county auditor, as appropriate, for recording.
2. Upon receipt of recording data, transmits voucher and appropriate letters to accounting to have warrant drawn and mailed.
3. Upon receipt of title insurance policy and recorded documents, the file is closed to the real estate services records vault.
4. Inputs required data into the computer system.

7-3.2 Condemnation

A. State Condemnation

The Assistant Director of the Title and Condemnation Program:

1. Coordinates with the Region RESM and the Assistant Attorney General, WSDOT, to determine the makeup of blanket condemnations.
2. Prepares and certifies exhibit maps to be used in the condemnation action.
3. Writes legal descriptions of property to be acquired in condemnation action.
4. Reviews diary, transmittal sheet, and all title evidence, and prepares a listing of interested parties to be named.
5. Transmits condemnation data package to the Assistant Attorney General's Office.
6. Examines all *Right of Way Plan* revisions and SPCs to determine their effects, if any, on any pending condemnation case. As a result, supplies the Assistant Attorney General, WSDOT, with corrected descriptions, maps, lists of interested parties, etc.
7. Upon receipt of the *Memo: Stop Condemnation Request* (Form RES-319) and upon confirming that an appropriate settlement has been obtained, sends a letter to the Assistant Attorney General, WSDOT, requesting that the parcel be deleted from the condemnation action.

B. Federal Condemnation

The Assistant Director of the Title and Condemnation Program:

1. Coordinates with the project engineer to obtain accurate exhibit maps as required for the federal court. The federal court requirements include:
   a. Color-coded *Right of Way Plan Shee*t(s) for each parcel.
   b. Legend on each sheet (as to meaning of symbols employed).
   c. Parcel number *within* the right of way boundaries.
   d. A known monument shown on each sheet.
   e. Metes and bounds delineation of the part taken expressed completely on the face of the plan.

f. Vicinity map on each sheet showing entire ownership.

g. Distances expressed in hundredths of a foot.

h. Areas expressed in thousandths of an acre.

i. State Design Engineer's (or designee's) signature and seal.

2. Prepares a legal description of the acquisition that agrees with the delineation on the exhibit map.

3. Coordinates with the FHWA to obtain their preliminary approval of the state's:

   a. Exhibit maps.

   b. Legal description.

   c. Appraisals.

4. Submits legal description, and orders federal form title insurance reports from the title insurance company — the amount of the insurance being the amount of the FHWA approved preliminary appraisal.

5. Coordinates with photogrammetry to obtain aerial photographs of the area involved as close to the date of the "Declaration of Taking" as the weather permits.

6. Coordinates with the FHWA Division Realty Officer, FHWA Attorney, and U.S. Department of Justice, as needed, to obtain additional appraisals, plans, etc. Assures compliance with the requirements of Section 1-22.

7. Prepares, coordinates, and submits through channels a data package containing:

   a. A letter to the FHWA (signed by the WSDOT Secretary) including:

      (1) The justification for the federal acquisition of the lands or interests in lands;

      (2) The date FHWA authorized WSDOT to commence right of way acquisition, the date the project was advanced to Stage 2 program status, the date of the project agreement, and a statement that the agreement contains the provisions required by 23-USC 107, 108, and 111, and 40 USC 257;

      (3) The necessity for acquisition of the particular lands under request;

      (4) A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access;

      (5) WSDOT's intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition;

      (6) A statement of compliance with the provisions of 23 CFR Part 771;

      (7) Adequate legal descriptions, plats, appraisals, and title data;

      (8) An outline of the negotiations which have been conducted by WSDOT with landowners;

      (9) An agreement that WSDOT will pay its pro rata share of costs;

      (10) A statement that assures compliance with the applicable provisions of the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* (42 U.S.C. 4601, et seq.);

      (11) A statement of why state condemnation proceedings are inadequate.

b. A letter to the FHWA Division Administrator (signed by the Director of WSDOT's Real Estate Services) transmitting the following:

(1) Title page, for each blanket or single case;

(2) The following items for *each* parcel:

(a) *Negotiators Report (Form RES-320).*

(b) *Diary of Right of Way Activities (Form RES-301).*

(c) *Exhibit maps (10 copies).*

(d) *Legal description (10 copies).*

(e) *Appraisal reports (5 copies).*

(f) *Federal form title certificates (5 copies).*

(g) *Schedule "A" showing:*

1) *Parcel number.*

2) *Owners.*

3) *Owner's address.*

4) *Estimated just compensation.*

5) *Legal description.*

(h) *Scheduled ad date.*

(i) *Statement of the WSDOT's inability to acquire in State Court in time for contract advertising because of lack of jury term and trial setting.*

(j) *Statement of access control.*

c. Checks and eventually accepts the deed(s) from the U.S.A. to the state. Each deed is processed for posting and recordation as specified in Chapter 6.

7-3.3 Conveyances of Excess and/or Surplus Property

The Assistant Director of the Title and Condemnation Program:

A. Title Checks

Performs a preliminary title check to determine what interest WSDOT holds in subject property and those exceptions and/or reservations which must be made in any proposed conveyance.

B. Descriptions

Reviews descriptions submitted by property management or writes and reviews descriptions of property being conveyed.

C. Conveyance Documents

Reviews documents of conveyance for completeness and accuracy prior to final execution.

D. Posting

Posts completed conveyance to *Right of Way Plans*.

7-3.4 Records

The Assistant Director of the Title and Condemnation Program:

A. Map Books

Maintains map books including entry of new *Right of Way Plans*, entry and reposting of plan revisions.

B. Sundry Site Records

Maintains pit and stockpile record books and maps.

C. Advise Others

Advises and assists others on matters involving right of way acquisitions and plans including, but not limited to, retrieval of data from archives and interpretation of evidence therefrom.

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8-1 General

This chapter is concerned with encumbrances and the procedures for clearing them. Techniques include: escrowing the transaction, withholding a performance bond, or clearing the encumbrance prior to transmitting the parcel to Headquarters. The method used to clear each encumbrance is noted in the Encumbrance Report (Section 8-2.1.2C).

The Director of Real Estate Services (DRES) determines the acceptable title risk in each state acquisition. A title report, consisting of a "Preliminary Commitment for Title Insurance" (PC) plus any "Supplementals" (SPCs), is obtained for each parcel. The title report lists the known encumbrances affecting the title. In addition, the Acquisition Agent may discover other encumbrances (e.g., unrecorded easements).

The following sections discuss techniques for general clearance of encumbrances and procedures for clearance of individual encumbrances.

8-2 Clearance of Encumbrances

8-2.1 General Technique

8-2.1.1 Rules

A. The state clears each encumbrance affecting its acquisitions unless otherwise specified in this manual or unless otherwise authorized on an individual basis by special instructions from the Region Real Estate Services Manager (RESM), approved by the Assistant Director of the Title and Condemnation Program. Any such instructions and approvals are documented in the pertinent transaction.

B. Clearance of encumbrances is normally accomplished by the Region Office in noncourt action acquisitions.

C. Under conditions specified in Section 8-2.2 et seq., the state may obtain clearance of encumbrances involving the payment of money through the escrow services of the title company issuing the PC on the respective parcel.

D. If any interest cannot be acquired by negotiations, the entire acquisition is achieved through eminent domain proceedings.

E. Each transaction package includes documentation on the clearance of all encumbrances against the property being acquired.

8-2.1.2 Procedures

A. The Region RESM:

1. Investigates each encumbrance listed on the PC (and SPC, if applicable) and all other questions of title which appear during the acquisition process.

2. Resolves all title questions in accordance with Section 8-2.1.1 and 8-3 et seq., or obtains execution of an appropriate *Escrow Agreement* (Form RES-337) in accordance with Section 8-2.2.

B. The Acquisition Agent:

1. Includes an *Encumbrance Report* in the appropriate location on the *Right of Way Acquisition Transmittal* (DOT Form 262-048), explaining the effect of each encumbrance on the state's acquisition and the method employed to clear each encumbrance.
2. If unable to negotiate a settlement of any interest, reports the facts to the Region RESM and makes the appropriate note in the *Diary of Right of Way Activities* (Form RES-301) in accordance with Chapter 6.

8-2.2 Escrow Technique

8-2.2.1 Rules

A. Transactions are closed in escrow when:

1. The Region RESM feels an escrow is required to protect the state's or the property owners' interests (e.g., the happening of a future event that does not require a judgment by the escrow agent as to its happening).
2. A multiplicity of signatures is required on a single warrant and contact between endorsers may be complicated (e.g., additional mailing of warrant necessary between endorsers).
3. Total acquisition involving out of area lenders.
4. The owners insist upon it.

B. Transactions are not normally closed in escrow when:

1. The amount necessary to clear an encumbrance is subject to negotiation.
2. A condition precedent to final closing involves the escrow agent in a determination of a performance other than the payment of money (e.g., removal of improvements).

C. Reasons for closing an acquisition in escrow are documented in the *Diary of Right of Way Activities* (Form RES-301).

8-2.2.2 Procedures

When in compliance with Section 8-2.2.1 it is necessary to close a transaction in escrow, the Acquisition Agent:

A. Clears all encumbrances of nonmonetary nature (easements, etc.) and documents the clearance of these encumbrances on the *Encumbrance Report*.

B. Provides, for the benefit of the escrow agent, names, addresses, and telephone numbers of parties in interest, including institutions collecting contract or mortgage payments, judgment creditors, etc.

C. Completes all appropriate instruments involving conveyance to the state and obtains execution thereof.

D. Completes the *Escrow Agreement* (Form RES-337) in accordance with Figure 8-2.2.2.

E. Uses an *Addendum to the Escrow Agreement* (see Figure 8-2.2.2) when there is need for more detailed instructions to the escrow agent than the space available in the standard *Escrow Agreement* (Form RES-337) permits.

F. In situations that call for an *Addendum to the Escrow Agreement*, confers with the Region RESM. The Region RESM may request the assistance of the Assistant Director of the Title and Condemnation Program.

G. Leaves an executed copy of the completed *Escrow Agreement* with the grantors, retains a copy for the region file, and transmits the executed original to Headquarters with the *Right of Way Acquisition Transmittal*.

H. Prepares the *Real Property Voucher* (DOT Form 262-039) as specified in Chapter 10. The voucher is to be signed by the grantor's (claimants) and is to direct that the warrant be made payable to the escrow agency.

8-3 Lien Encumbrances

8-3.1 Real Property Taxes

8-3.1.1 General

Real property taxes are payable on or after February 15th of each year. The entire year's taxes become delinquent if the first half taxes are not paid on or before April 30th. The second half taxes become delinquent unless they are paid on or before October 31st.

8-3.1.2 Rules

A. Any real property tax lien (current year and prior years) is an encumbrance which is cleared on acquisitions of fee title and on most acquisitions of less than fee title (see Chapter 6).

B. The effect of the current year's real property tax lien depends upon the date that the transaction is approved in Headquarters. If the Headquarters approval date is between:

1. January 1st through February 14th: The current year's real property tax lien may be ignored.
2. February 1st through June 29th: At least the first half real property tax must be cleared.
3. After June 29th: The lien of the entire year's tax must be cleared.

C. Persons who have paid the real property tax for the current year may be entitled to a tax refund. Such refund, if any, is based upon that portion of the taxes paid that relate to the property acquired by the state, but only on a pro rata basis for that portion of the year following the state's acquisition. This is not an encumbrance and reimbursement is obtained directly from the County Treasurer.

ESCROW AGREEMENT

TO:	**OUR REFERENCE: (SR/Title)** **Parcel No.** **FA No.** **Your Reference:**

DATE:

The Washington State Department of Transportation, and the undersigned, mutually agree and direct you to close this escrow in accordance with the following instructions:

1. The undersigned grantors hereby authorize the issuance of a State warrant payable solely to the above Escrow Agent, for our benefit.
2. Receive herewith_____from the undersigned as grantor to the State of Washington as grantee, conveying the lands described in your above-referenced Preliminary Commitment.
3. Receive the sum of $_____ in form of State warrant, which you are instructed to distribute as follows:
   (a) Pay and eliminate of record all encumbrances on said premises shown in your Preliminary Commitment dated _____ and supplements dated _____, together with any other encumbrances appearing of record against said premises, on statement of holder's representative prior to closing except those noted in paragraphs _____.
   (b) Pay the following charges: Escrow Fee $_____ plus sales tax; Recording fees, if any, chargeable to _____.
4. _____.,
5. When ready to vest title in the State of Washington, record instrument shown in Instruction 2 above (no recording fee or excise tax is to be charged) and prepare CLOSING DETAIL STATEMENT as explained on page 2 hereof.
6. Remit the balance by check to me/us at _____ with your CLOSING DETAIL STATEMENT.
7. Issue standard form Owner's policy of title insurance in the sum of $ insuring the STATE OF WASHINGTON as owner of the estate conveyed.
8. Upon closing, mail recorded instruments, title policy, and copy of CLOSING DETAIL STATEMENT to WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, Transportation Building, P. O. Box 47338, Olympia Washington 98504-7338, Attn.: Real Estate Services Division, Assistant Director for Title and Condemnation Program.

WASHINGTON STATE
Department of Transportation

By: _____
Right of Way Agent

_____

_____

_____

_____

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Revised 1/2001

Page 1 of 2 Pages

Parcel:

Escrow Agreement (Example) (page 1 of 2)
Figure 8-2.2.2

CLOSING DETAIL STATEMENT

As indicated on the Escrow Instructions, the Escrow Agent shall furnish upon completion of the closing of the escrow transaction, a CLOSING DETAIL STATEMENT which shall show thereon:

(a) The date of receipt and total amount of escrowed funds.

(b) The fee for escrow services and a statement that the entire escrow fee has been paid solely by the State;'

(c) The date on which the State's grantor is notified that the Escrow Agent is ready to disburse funds to the State's grantor;

(d) Date of closing of the escrow;

(e) Detail of a deed of trust or mortgage payoff which includes:
Principal unpaid balance and date
Accrued interest and dates for which interest is paid
Prepayment penalty assessed, if any
Offset of reserves held by beneficiary or mortgagee
Net amount paid to beneficiary or mortgagee and date

(f) Sums, if any, withheld from distribution to State's grantors at time of closing, and for what reason;

(g) Endorsements to the effect that
1. The statement has been read by the State's Grantor, is approved, and acknowledgment of receipt of the funds indicated as the net balance due from the Escrow Agent.
2. The closing officer certifies that the statement is true and correct.

In case the Escrow Agent has withheld funds from distribution to the State's grantors for any reason, the Escrow Agent shall furnish to the State copies of correspondence transmitting such withheld funds at the time of their final disposition.

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Page 2 of 2 Pages

Parcel:

Escrow Agreement (Example) (page 2 of 2)
Figure 8-2.2.2

8-3.1.3 Procedures

8-3.1.3.1 Payment of Current Year's Tax

Note: Refer to Section 8-3.1.2B.

A. For either a total or a partial acquisition, the Acquisition Agent, or the owner's election:

1. Allows the owner to pay the tax lien. The Acquisition Agent includes proof of the payment with the *Right of Way Acquisition Transmittal*.
2. Pays the tax lien by a separate *Real Property Voucher* (DOT Form 262-039) made payable to and signed by the appropriate County Treasurer. The amount of this voucher is shown as a deduction on the "principal" *Real Property Voucher*.
3. If the mortgagee is holding reserves to pay the real property taxes, obtains a "Tax Payoff" letter from the mortgagee. The Acquisition Agent requests that this letter be prepared and signed by the appropriate official of the mortgage company guaranteeing payment of the real property taxes. He includes this letter in the data package transmitted with the *Right of Way Acquisition Transmittal*.

B. If the transaction is to be closed in escrow, includes instructions to pay the real property tax in the escrow agreement.

8-3.1.3.2 Payment of Delinquent Taxes

The Acquisition Agent clears the lien of delinquent taxes by using the procedures of Section 8-3.1.3.1. If a separate voucher is written for the payment, the Acquisition Agent has the County Treasurer compute the interest to be charged allowing sufficient lead time (approximately 60 days) to enable payment to be received by the County Treasurer. If desired, a statement may accompany the voucher.

8-3.1.3.3 Payment by Tax Segregation

On a partial acquisition, the Acquisition Agent or the owner may request that the County Assessor segregate both the assessed valuation and the real property taxes between the property acquired by the state and the remainder. Then the taxes are paid on at least the portion acquired by the state (RCW 84.60.070) using the procedures in Sections 8-3.1.3.2 and 8-3.1.3.3.

8-3.1.3.4 Clearance by Tax Set Over

On a partial acquisition, if the assessed valuation of the remainder exceeds the total amount of all current and delinquent taxes, the amount of the real property tax applicable to the state's acquisition may be "set over" to the remainder thus avoiding the necessity of making a tax payment prior to closing. The Tax Set Over Letter (Figure 8-3.1.3.4) may be prepared by the Acquisition Agent, is signed by the owners and is approved by the County Assessor and the County Treasurer. The Acquisition Agent includes the *Tax Set Over Letter* in the data package transmitted with the *Right of Way Acquisition Transmittal*.

Also, on a partial acquisition, the taxes may be set over to the remainder by inserting in the Warranty Deed the following paragraph:

"Also, the Grantor(s) request the Assessor and Treasurer of said County to set over to the remainder of the hereinafter described Parcel "A", the lien of all unpaid taxes, if any, affecting the real estate herein conveyed, as provided for by RCW 84.60.070."

Note: This process cannot be used for a total acquisition.

8-3.2 Assessments

8-3.2.1 General

A. An assessment is an amount levied against real property by an assessing district (e.g.,Local Improvement district (LID)) to accomplish a public improvement (e.g., water, sewers, etc.). Most assessments are lump sum levies (which usually are payable over a number of years); however, when the operation is continuous (e.g., a drainage or diking district), an assessment may be levied annually and thereby become a recurring lien in the same sense as real estate taxes on private property. An assessment may be pending when the preliminary assessment roll is filed; however, the assessment becomes a lien only when the final assessment roll is turned over to the County or City Treasurer for collection.

B. Procedures covering payment of periodic assessments levied against state-owned properties are given in Chapter 11.

C. Procedures for determining that the state's firm offer accurately reflects the effect of an assessed public improvement are given in Chapter 6.

8-3.2.2 Rules

A. If the state's transaction is completed (i.e., approved by the Director of Real Estate Services or his designee) before an assessment is collectable, the pending assessment is ignored.

B. The lien of current and delinquent assessment is cleared or adjusted:

1. On all acquisitions of fee title.
2. On those acquisitions of less than fee title for projects which would restrict the operation, maintenance, or other functional interest of the assessing district.

8-3.2.3 Procedures — Irrigation Districts

A. If the Region Administrator determines the department-controlled lands or highways will remain in irrigable status, the annual assessments are handled by the Property Management Program Branch as specified in Chapter 11.

B. If the Region Administrator determines that the department-controlled lands or highways should be removed from an irrigable status, the Region RESM determines a lump sum payment for lands that are to be removed from irrigable status (see Figure 8-3.2.3B) in coordination with the irrigation district as follows:

1. A sum sufficient to pay the pro rata share of the irrigation district's bonded indebtedness; and
2. A sum sufficient to pay the deferred installments of any LID against such lands, if any; and
3. A sum sufficient, if invested at an annual rate of interest equivalent to that set forth in the current tables issued by the State Insurance Commissioner, to produce a sum of money equal to the annual increase in the operation and maintenance costs against the remaining lands in the irrigation district resulting from the severance from the irrigation district of the lands acquired by WSDOT.

Owner's Mailing Address
Date

County Assessor
County Treasurer
Address

SR

FA
Right of Way
Tax Acct. No.

CS
Parcel No.

Gentlemen:

You are hereby requested to transfer to the remainder of our property the lien of any unpaid taxes for the years _____ assessed against the portion of our property required for right of way within the above referenced state highway project.

The lands owned under the above-referenced tax account number have an area of _____ and are described as follows:

The portion sold to the state of Washington has an area of _____ and is described as follows:

Accepted and approved:

_____, 19_____

_____ County Assessor

By: _____
Deputy County Assessor

_____ County Treasurer

By: _____
Deputy County Treasurer

Cordially,

(Taxpayer)

_____

_____

Tax Set Over Letter (Sample)
Figure 8-3.1.3.4

C. The Region RESM:

1. Prepares a resolution (see Figure 8-3.2.3C1) for action by the Board of Directors of the irrigation district.
2. Prepares a *Real Property Voucher* (DOT Form 262-039) as specified in Chapter 10.
3. Transmits the voucher and resolution through channels to the irrigation district for approval and execution.
4. Upon receipt of the executed resolution and voucher from the irrigation district:
   a. Inputs pertinent data into REIS.
   b. Transmits the resolution and *Real Property Voucher* together with the determination of the sum due (see Figure 8-3.2.3B) to the DRES as a separate acquisition using the procedures set forth in Chapter 6 for approval.

8-3.2.4 Procedures — All Other Assessing Districts

A. The Region RESM:

1. Identifies from the title reports, and any other appropriate source, all:
   a. Lump sum levies by special districts for capital improvements.
   b. Recurring assessment liens by junior assessing districts for performed services (e.g., fire patrol, diking).
   c. Assessing officials (or bodies) affected by the highway project.
2. Assures that the DV (Form RES-214) reflects the market value, if any, added by the improvement for which the assessment was levied.
3. On acquisitions of less than fee title: coordinates with the Assistant Director of the Title and Condemnation Program to determine the required actions.
4. Instructs the Acquisition Agent on the appropriate steps to be taken to clear, adjust or ignore assessments, and any amounts to be deducted from the "principal" *Real Property Voucher* (DOT Form 262-039) because of any separate clearance of assessment liens.

B. The Acquisition Agent:

1. Clears or adjusts assessment liens as instructed by the Region RESM by adapting the procedures given in Section 8-3.13, except that:
   a. It is not possible to arrange payment of an assessment from the reserves held by the mortgagee.
   b. The request for an assessment segregation is directed to the proper assessing district officials. (**Note:** Set overs of assessments are not authorized by law but may be arranged at the discretion of the assessing district involved.)
   c. The amount of all assessments to be paid are shown as "Deductions" on the principal *Real Property Voucher* (DOT Form 262-039).
2. Shows the method for clearance, adjustment, or reason for ignoring the assessment on the Encumbrance Report.

Name
Irrigation District
Podunk, Washington
June 23, 2000

To: Department of Transportation

Attention: , Director of Real Estate Services

Olympia, Washington

For amounts due the Irrigation District under RCW 87.03.810 for irrigable acreages taken for highway right of way as follows:

SD 0000 Right of Way 0000 SR 12
Sulphur Creek to Stover Road

Notes:

(1) payment under ID's W/U.S.A.	Contract indebtedness to United States (Drainage Contract No. 14-06-100-1474, dated May 15, 1958) 3 payments — 1991 to 1998 incl., at $0.16322 = on 77.19 acres (general obligation on all lands in the district)	$ 88.19

(3) Operation and Maintenance obligation:

Increased O&M costs to remainder use average assessment against lands to be leased

Year Acquired	**Acres**	**Average Annual Assessment**
1998	43.36	$267.86
1999	22.67	129.47
2000	11.16	48.27
	77.19	$445.60

Lump sum payment to earn $445.60 at 3.5 percent	$12,731.43
Total due on 77.29 acres	$12,819.62

Past due assessments — not paid on 77.19 acres after they were acquired by state:

1999	—	215.70	
2000	—	434.17	
Interest at 6 percent from due dates to July 31, 2000		32.44	
to clear past due assessments			682.31
		Total	$13,501.93

I do hereby certify that the district realized no savings in its operation and/or maintenance costs by the nonuse of water by the 77.19 acres above referred to.

_____
Secretary

Determination of Lump Sum Payment for Irrigation District (Example)
Figure 8-3.2.3B

Resolution

WHEREAS, Chapter 303, Laws of Washington of 1959 (RCW 87.03.810) sets out that whenever lands situated in an irrigation district are acquired by the Washington State Department of Transportation, and such lands, at the time of their acquisition, were irrigable and were being served or were capable of being served by facilities of the district to the same extent and in the same manner as lands of like character held under private ownership were served, the State Department of Transportation, as part of the cost and expense of the acquisition of right of way and with funds available for such acquisition, shall make a lump sum payment to the irrigation district in an amount:

(1) Sufficient to pay the pro-rata share of the district's contract indebtedness to the United States;

(2) Sufficient to produce, if invested at an annual rate of interest equivalent to that set forth in current tables issued by the State Insurance Commissioner, a sum of money equal to the annual increase in operation and maintenance costs against remaining lands in the district resulting from the severance from the district of the lands thus acquired by the Washington State Department of Transportation.

WHEREAS, the Washington State Department of Transportation has made a lump sum payment to the _____ Irrigation District for lands within the highway project entitled SR 12, Sulphur Creek to Stover Road in the amount of $13,501.93 approved _____, and aggregating 77.19 acres, for reasons as set forth in RCW 87.03.810, and WHEREAS, RCW 87.03.810 sets forth that upon the making by the WSDOT the lump sum payment to the district, the district shall make and enter an order releasing such lands from further district assessments for the delivery of water to said lands,

NOW THEREFORE, IT IS BY THE BOARD OF DIRECTORS OF THE _____ IRRIGATION DISTRICT, RESOLVED AND ORDERED that the lands in the district acquired by the state of Washington through its Department of Transportation on the accompanying list marked Exhibit "A" which by reference is made a part of this Resolution, be relieved from further district assessments for the delivery of water, in accordance with the Laws of Washington RCW 87.03.810.

Board of Directors of

_____

Irrigation District

_____

_____

_____

Date:

(SEAL)

Attest:

_____

Secretary

Irrigation District Resolution (Example) (page 1 of 2)

Figure 8-3.2.3C1

Exhibit "A"

In the matter of SR 12, Sulphur Creek to Stover Road

Parcel 0-1800 (formerly Isaacs)

0.18 acres, as conveyed to the state of Washington by deed recorded under the Auditors File No. _____ in Volume _____, page _____, records of _____ County, Washington.

Parcel 0-1801 (formerly O'Rourk)

0.03 acres, as conveyed to the state of Washington by deed recorded under Auditor's File No. _____ in Volume _____, page _____, records of _____ County, Washington.

(Continue with each acquisition to be related from the Irrigation District, the total of the individual acreages equalling the acreage in the lump sum computation and the resolution.)

The lands embraced by this Exhibit A contain a total of 77.19 acres.

Irrigation District Resolution (Example) (page 2 of 2)
Figure 8-3.2.3C1

8-3.3 Mortgages and Deeds of Trust

8-3.3.1 General

Mortgages and Deeds of Trust are discussed together. For the purpose of this section, both are encumbrances that are cleared by the payment of money in exchange for the proper document of release. In the following discussion, the language appropriate to a mortgage is shown first, with the language appropriate to a Deed of Trust shown in parentheses. The term "trustee" is appropriate only to Deed of Trust and is used only in that context.

8-3.3.2 Rules

A. A satisfaction of mortgage (reconveyance) is required to clear a mortgage (Deed of Trust) in the case of any total acquisition.

B. In the case of partial acquisitions, a partial release of mortgage (partial reconveyance) is required.

For exceptions to this, see Section 8-3.6 and Figure 8-3.3.4.

C. In accordance with Chapter 6, certain "incidental expenses" incurred in transferring property to the state are payable by the department.

8-3.3.3 Procedures

The Acquisition Agent determines the identity of the "servicing agent" by asking the grantor where he makes the mortgage (Deed of Trust) payments. The servicing agent is the initial point of contact for dealing with the mortgagee (beneficiary).

8-3.3.3.1 Total Acquisition

A. Instruments Obtained: If the mortgagee (beneficiary) is willing to deliver a satisfaction of mortgage (Reconveyance of Deed of Trust) without funds in hand, the Acquisition Agent:

1. Obtains the signatures of both the grantor (trustor) and the mortgagee (beneficiary) on the *Real Property Voucher* (DOT Form 262-039) using the mailing address of the mortgagee (beneficiary) as the address of the "claimant."

   Note: As an alternate the amount to be paid to the mortgagee (beneficiary) may be paid by a separate *Real Property Voucher* (DOT Form 262-039) made payable to the mortgagee (beneficiary) and deducted from the principal *Real Property Voucher* if both parties are agreeable to the amount.

2. On the strength of the state's promise to pay the voucher, requests that the mortgagee (beneficiary) take all necessary steps to file a satisfaction of mortgage (reconveyance) with the County Auditor where the property is located.

3. Obtains the recording data and auditor's file number of the satisfaction of mortgage (reconveyance) and recites same in his Encumbrance Report (in DOT Form 262-048, *Right of Way Acquisition Transmittal*) as reference for the clearance of the encumbrance.

Request to Accept Encumbrance
(Mortgages and Deeds of Trust Only)

The Right of Way Manual, Section 8-3.6, sets forth the minimum standard for assuming the risk of acquiring encumbered property without the formality of obtaining a Partial Release of Mortgage, Partial Reconveyance of Trust Deed, or Partial Releases of Other Monetary Liens.

Negotiators and Supervisors are advised that certain information is required, IN ADDITION to the minimum standard set forth above, to determine the advisability of approving acquisitions without a Partial Release or Partial Reconveyance.

Final approval or rejection of any request to dispense with a Partial Release or Partial Reconveyance is at the discretion of the Assistant Director of the Title and Condemnation Program.

Negotiators and Supervisors are further advised that if condemnation is contemplated, the lender MUST EXECUTE any Possession and Use Agreement or releases and distribution of funds must be agreed to by owner and the lender.

TO: Assistant Director, Title and Condemnation Program

FROM: _____ (Negotiator)
_____ (Supervisor)

RE: Parcel No. _____
SR _____
Owners Name _____

It is requested that the acquisition of the above-referenced parcel be accepted subject to the mortgage or deed of trust shown below. In support of this request, the following is submitted:

1. A complete and legible copy of the mortgage or deed of trust.
2. A copy of each "Determination of Value" or Administrative Offer Summary. If not otherwise shown, assessed value of subject property is _____ land, _____ improvements, _____.
3. Our highest offer to purchase subject parcel is in the amount of $_____.
4. Present owners have owned or been in possession of subject property since _____.
   (date)
5. The present status of loan payments is _____.
   (current or number of months in arrears)

   Status determined by _____.
6. The present status of property taxes and assessments is:

   _____
   _____
7. The following liens and/or judgments currently affect subject property:

   _____
   _____
8. The following comments are in further support of this request:

   _____
   _____

The above request is: ( ) Approved _____
(dated and initialed)

( ) Rejected _____

(This form must be submitted prior to the acquisition transmittal.)

Request to Accept Encumbrance
Figure 8-3.3.4

B. Instruments Guaranteed: If the mortgagee is unwilling to deliver a satisfaction of mortgage without funds in hand (beneficiary cannot deliver a reconveyance), the Acquisition Agent:

1. If the mortgagee (beneficiary) is an established lending firm such as a bank, mortgage banker, or savings and loan, an "Instrument Guarantee" letter is requested in lieu of the satisfaction of mortgage (full reconveyance). This is a letter signed by an appropriate officer of the mortgagee (beneficiary) that says that they will satisfy their mortgage (arrange for full reconveyance of the property) upon receipt of the funds for same.

2. If the mortgagee (beneficiary) is an individual or organization not directly connected with real estate finance, and cannot be satisfied in accordance with Section 8-3.3.3.1A, the transaction is handled in escrow as described in Section 8-2.2.

8-3.3.3.2 Partial Acquisition

A Instrument Not Required: Where, in accordance with Section 8-3.3.2B, a partial release of mortgage (partial reconveyance) is not required, the mortgage (Deed of Trust) may be ignored.

B. Instrument Required: Where a partial release of mortgage (partial reconveyance) is required in accordance with Section 8-3.3.2B, the Acquisition Agent determines, by coordinating with the mortgagee (beneficiary) and the grantor, any necessity to make payment of money to the mortgagee (beneficiary). This is decided by the parties and is normally based on the value of the remaining real property in relation to the balance owed on the mortgage (Deed of Trust).

1. Some payment of money to the mortgagee (beneficiary) required by the parties: There is a divergence of procedures between mortgages and Deeds of Trust in this instance; therefore, each is discussed separately.

   a. *Partial Release of Mortgage* (PRM): Acquisition Agent obtains execution of a *Real Property Voucher* as in Section 8-3.3.3.1A and submits for mortgagee's signature a *Partial Release of Mortgage* (Forms RES-308 and RES-309).

   b. Partial Reconveyance: Acquisition Agent obtains execution of a *Real Property Voucher* as in Section 8-3.3.3.1A and prepares *Request for Partial Reconveyance* (Form RES-310) and *Partial Reconveyance* (Form RES-311). The *Request for Partial Reconveyance* is signed by the grantor (trustor) and beneficiary, requesting the trustee to execute the partial reconveyance. The Acquisition Agent, using the "Request" as his authority, obtains execution of the *Partial Reconveyance* from the trustee.

2. No payment of money to the mortgagee (beneficiary) required by the parties: the Acquisition Agent proceeds as in Section 8-3.3.3.1A except in this instance the grantor (trustor) is the payee and the mortgagee (beneficiary) does not join in execution of the *Real Property Voucher*.

   The Acquisition Agent:

   a. Includes in the PRM the appropriate clause (see Section 9-10.032) authorizing full payment to the grantor, or

   b. Includes in the request for partial reconveyance the appropriate clause (see Chapter 9) authorizing full payment to the grantor.

8-3.4 Judgments

8-3.4.1 General

A. A money judgment is a lien on all the real and personal property of the debtor and is similar to the lien of a mortgage. If no action is taken to collect or to renew the lien of a judgment within ten years of the date of its entry, the judgment is outlawed. It is often advantageous to the grantor, if he is the judgment debtor and the time for levy by the creditor has almost expired, to ignore the judgment.

1. Judgments for child support extinguish ten years after the youngest child reaches the age of 18.

B. A judgment is an effective lien on the following:

1. All properties owned by the debtor in the county in which the judgment is entered at the time of entry of the judgment.
2. All properties to which the debtor acquires ownership or a contract interest during the life of the judgment.
3. All properties owned by the debtor in all other counties in Washington provided an Abstract of Judgment has been recorded in the county in question.

8-3.4.2 Rules

A. Judgments are cleared by payment, partial payment, and/or release of the property being acquired.

B. Without documentation to the contrary, it is assumed that the party named or cited in the title report is, in fact, the judgment debtor and that the judgment has been neither satisfied nor outlawed.

8-3.4.3 Procedures

A. Identity of Debtor:

The Acquisition Agent determines whether the judgment debtor and the state's grantor are the same person.

B. Verification of status of judgment against state's grantor:

1. Outlawed: If the Title Report and/or the Acquisition Agent's investigation indicate that no action has been taken to collect or renew the lien within the past 10 years, the Acquisition Agent requests that the District RESM obtain a SPC showing that the judgment is eliminated.
2. Paid: If such judgment has been paid, the Acquisition Agent requests the creditor's attorney to satisfy the judgment of record.
3. Assigned: If the judgment creditor has assigned his interest in the judgment and the Acquisition Agent is uncertain of the validity of the assignment, the assignor and the assignee are requested to join in execution of a satisfaction of judgment or partial release of judgment (see Section 8-3.4.3.C2a).

   Note: An Assignment of Judgment must include an acknowledged execution by the judgment creditor.

C. Clearance:

1. If the conditions stated in Section 8-3.43B1 appear to pertain, but a new SPC does not show that the judgment is outlawed, the Acquisition Agent submits a complete explanation of the evidence to the District RESM requesting that specific guidance be obtained from the Assistant Director of the Title and Condemnation Program.

2. If the judgment remains of record against the state's grantor and is to be cleared, the Acquisition Agent:

   a. Contacts the judgment creditor's attorney or assignee (if any) and obtains a written statement of the amount necessary to obtain a satisfaction or a partial release of the judgment.

   b. Arranges with the debtor and his attorney to pay the required amount, usually by a separate *Real Property Voucher* (DOT Form 262-039).

   c. Arranges with the creditor and/or his attorney to have a Satisfaction of Judgment or a Partial Release of Judgment properly entered in court.

   d. If the judgment was filed in a county other than the one in which the subject property is located, has the satisfaction or partial release recorded in the appropriate county.

3. If nearly ten years have passed since the entry of the judgment, the Acquisition Agent proceeds as described in Section 8-3.4.3D2.

D. Escrow:

Judgments are cleared in escrow when either:

1. The amount needed to obtain a release (or partial release) is known (see Section 8-3.4.3C2) and other details of the transaction call for it to be closed in escrow in accordance with Section 8-2.2.

2. It is nearly ten years since entry of the judgment and no action has been taken by the creditor. In this case, the escrow instruction tells the escrow agent to withhold sufficient funds to pay the judgment until such time as the judgment is outlawed.

8-3.5 Other Monetary Liens

8-3.5.1 General

Any monetary debt may be reduced to judgment (see Section 8-3.4) and become a lien against real estate. Monetary indebtedness (although not reduced to judgment) may become a lien capable of being specifically reported in a title report when the creditor or his attorney files the appropriate papers with the County Clerk or records the papers with the County Auditor. The condition of a grantor's title may also be questionable due to other types of monetary debts.

A. The following become a lien against real estate upon recording with the County Auditor in the county where the lands lie and are reported accordingly as an encumbrance on the title report:

1. Labor, Mechanics, and Materialman's Liens: May be foreclosed by court action or, subject to further specific conditions (per RCW 60.04.100), may become outlawed after eight (8) months.

2. Federal Tax Lien: Delinquent federal taxes are a lien when properly filed with the pertinent County Auditor. The Federal Internal Revenue Service office closest to the property handles matters related thereto. May be considered outlawed after

10 years from date of filing.

B. At time of death, debts of the decedent become a lien against his estate without necessity for filing or recording and are generally only questioned in the PC. Such debts may include:

1. State Inheritance Tax and Federal Estate Tax.
2. Funeral expenses.
3. Bills and expenses of final illness.

C. There are additional types of indebtedness which may require clearance (e.g., Tax Warrants, Financing Statements, etc.).

8-3.5.2 Procedures

A. Labor, Mechanics, and Materialman's Liens:

1. Verification of Status of Lien: If eight (8) months have lapsed since the date of filing of the lien, the Acquisition Agent obtains an SPC (by request through the Region RESM). If the SPC advises that the lien may be disregarded, the Acquisition Agent cites the SPC in his Encumbrance Report (see *Right of Way Acquisition Transmittal*, DOT Form 262-048).
2. Clearance: Procedures outlined for clearing of "Judgments" (see Section 8-3.4) are adjusted and adapted for clearing of labor, mechanics, and materialman's liens with the following exceptions:
   a. The attachment period is eight (8) months instead of six (6) years.
   b. The lien is released by the creditor instead of his attorney.
   c. The documents of release are "Release of Lien" and "Partial Release of Lien."
   d. The documents of release are drafted for each specific case under the supervision of the Region RESM in coordination with the Assistant Director of the Title and Condemnation Program.
   e. The documents of release are recorded with the County Auditor instead of filing with the County Clerk.

B. Federal Tax Lien: The Acquisition Agent clears the Federal Tax Lien by adapting the procedures for clearing of "Judgments" in Section 8-3.4 under the following conditions:

1. Deals with the Internal Revenue Service (IRS) office closest to the property.
2. Requests that the IRS file a release where the debtor indicates the debt has been paid.
3. Includes a copy of the debtor's receipt identifying his payment of the debt or a copy of the release with the *Right of Way Acquisition Transmittal*.
4. Explains the method of clearance on the Encumbrance Report.

C. Lien on Estate of Deceased: Refer to Section 8-5.5.

D. Miscellaneous Monetary Encumbrances: When the Title Report or any information obtained by the Acquisition Agent discloses or raises questions concerning possible existence of other types of indebtedness on the part of the state's grantor, the Acquisition Agent refers the information to the Region RESM and requests specific guidance.

8-3.6 Clearing of Deeds of Trust, Mortgages, and Other Monetary Liens

Partial Reconveyances or Releases are not required on partial acquisitions when the dollar amount of compensation does not exceed $5,000 and there are no appreciable improvements in the area being acquired.

If the compensation is between $5,000 and $10,000, the form Request to Accept Encumbrance (Figure 8-3.3.4) is completed by the Acquisition Agent and sent to Headquarters for consideration prior to transmittal of the parcel file.

The form is self-explanatory and must be completed before submission.

Most mortgages and deeds of trust contain an eminent domain clause calling for all proceeds to be applied to the unpaid balance; if not, the lender can call all amounts immediately due and payable. The agent must inform the property owner of this fact and so note in the activities diary. The response of the owner should also be clearly noted.

If the owner elects to apply the proceeds to the unpaid balance, that is their decision. In this case, we will not require a release.

Note: **This procedure does not apply to DSHS liens and other child support judgments.**

8-4 Property Rights Encumbrances

8-4.1 Real Estate Contracts

8-4.1.1 General

A. A real estate contract is similar to an installment plan transaction between vendor (seller) and vendee (purchaser) and establishes rights and duties between the two parties. Either party may sell or assign his respective interest in the contract. The contract seller's interest is transferred by either a Warranty Deed, a Quit Claim Deed, or by a Seller's Assignment of Contract and Deed. The purchaser's interest may be transferred by either a Quit Claim Deed, or a Purchaser's Assignment of Contract and Deed.

B. An assignment of interest by a contract seller or a contract purchaser may be given as an actual (absolute) conveyance or may be given merely as a security document for a loan or for the performance of some act. A security document might, on its face, appear to be an absolute conveyance and be reported as such in the Title Report. The facts and relationships expressed by the assignor and assignee determine the intent of the parties.

C. Subject to the terms and conditions of the respective contracts, the most recent contract purchaser generally has the right to receive a deed upon fulfillment of the contract and, in the meantime, has the right of full use, control and enjoyment of the property. Any contract seller has the right to receive the contract payments, the duty to deliver a deed upon fulfillment of the contract, and forfeiture rights to the contract if the purchaser does not fulfill his contractual obligations.

8-4.1.2 Rules

A. The most recent contract purchaser who is in physical possession and/or control of the real property is the "equitable owner" and is the principal party with whom the state deals.

B. Recorded and unrecorded contracts and assignments are cleared as to the property being acquired.

8-4.1.3 Procedures

The following procedures are used to clear the encumbrance of real estate contracts and assignments in either total or partial acquisitions.

8-4.1.3.1 Parties

A. The Acquisition Agent determines the correct names and mailing addresses of contract sellers, purchasers, and assignees; and, where appropriate, verifies the intent of the respective parties as to absolute conveyance or security document (see Section 8-4.1.1B).

B. The Region RESM determines the identity of all necessary parties in interest and the "equitable owner." In complex cases, he coordinates with the Assistant Director of the Title and Condemnation Program.

8-4.1.3.2 Unrecorded Real Estate Contracts and Assignments

The Acquisition Agent:

A. Requests any party in interest holding an unrecorded real estate contract or assignment to record the particular instrument with the appropriate County Auditor. Obtains the auditor's file number and date of any such recording.

B. If the party refuses to record the instrument, obtains a copy of such instrument.

C. If the party refuses to record the instrument and also refuses to make a copy available: obtains the date of the instrument, the exact names of the parties as shown thereon, and the real estate excise sales tax receipt number.

D. Submits all data on unrecorded instruments to the District RESM and requests that an SPC be obtained. The SPC names the parties in interest and reveals the existence of any encumbrances against each such party.

8-4.1.3.3 Distribution of Funds

After obtaining agreement of the "equitable owner" to the state's offer to purchase, the Acquisition Agent contacts all necessary parties in interest to establish a mutually-agreeable disbursal of funds. If the parties cannot agree on the distribution, the Acquisition Agent turns in the parcel for possible condemnation.

8-4.1.3.4 Conveyancing

A. Joint Conveyance — Two alternatives are available:

1. Joint Conveyance, Single Voucher, Single Payee: If there is no distribution of funds required, or if the parties wish to arrange their own private distribution of funds, the Acquisition Agent has the contract purchaser and the contract seller join on an appropriate instrument. This instrument includes the appropriate clause authorizing payment by the state to only one of the parties. The *Real Property Voucher* is then executed and made payable to the party designated on the instrument of conveyance.

2. Joint Conveyance, Separate Vouchers: If there is to be a distribution of funds, the Acquisition Agent has the contract purchaser (owner) and the contract seller join on an appropriate instrument. The "principal" *Real Property Voucher* is executed by and made payable to the contract purchaser and indicates (1) the full amount of the state's transaction, and (2) a deduction of the amount to be paid separately to the contract seller. A second *Real Property Voucher* is executed by and made payable to the contract seller for the amount deducted from the "principal" voucher.

B. Separate Conveyances: The Acquisition Agent has the contract purchaser execute an appropriate instrument and also has the contract seller execute a deed to the state. Vouchering may be accomplished by any methods described in A, above.

C. Security Assignees: The Acquisition Agent clears the interest (as to the state's acquisition) of any security document assignee following the procedures for clearing of a mortgage as described in Section 8-3.3.3.1 or 8-3.3.3.2B, except that a Quit Claim Deed is used instead of a Satisfaction of Mortgage or a *Partial Release of Mortgage*. (See Section 8-3.6 for exceptions.)

D. Escrow: If the transaction meets the requirements for closing in escrow (see Section 8-2.2), the Acquisition Agent:

1. Has the contract purchaser execute an appropriate instrument and a *Real Property Voucher* which is made payable to the escrow agent.

2. Drafts an appropriate *Escrow Agreement* (Form RES-337), and has both contract purchaser and seller execute same if a partial acquisition is involved. If a total acquisition is involved, the contract seller's signature is not required.

8-4.2 Leases

8-4.2.1 General

A. Lease Rights: A lease is a conveyance of possessory rights in realty for a specified period of time, the consideration for which is termed "rent." To be fully binding, a lease must be in writing, just as any other conveyance involving real estate. The person conveying the possessory right is the lessor and the person to whom conveyed is termed the lessee.

Any portion of the bundle of rights that make up full ownership may be the subject of a lease, e.g., lease of the surface of the land only, lease of the improvements (or a portion thereof) only, some combination of land and improvements, lease of airspace over the property, or lease of subsurface rights such as oil or minerals.

A sublease is a lease between the original lessee and a third party (sublessee) in which sublease the original lessee becomes the (sub)lessor and may convey rights up to the limits of those which he himself holds.

A lease may contain an option to renew, which, if exercised, would extend the term of the lease.

B. Self-terminating Leases: A self-terminating lease contains a clause which automatically terminates the agreement upon the happening of a certain event, such as, Eminent Domain acquisition of all or a portion of the premises. The parties in interest (and not the condemnor) decide whether their agreement is terminated by an Eminent Domain acquisition.

8-4.2.2 Rules

A. A leasehold interest is recognized by the state when it is evidenced by either:

1. A written (recorded or unrecorded) document.

2. An existing use and possession of the property in exchange for a consideration (rent), but only if accompanied by evidence of the duration of the contracted period of time.

B. Nonself-terminating lease and sublease interest in effect on the date of delivery of the initial Firm Offer Letter are cleared or adjusted by the state when they conflict with acquisitions of fee title, easements, or permits.

1. A *Partial Release of Lease* (Form RES-312) is obtained in partial acquisitions and acquisitions of easements and permits where the rights of the lessee (in the remainder) are not being obviated by the state's partial acquisition.
2. A *Release of Lease* (modeled from Form RES-312) is obtained in all total acquisitions, and in those partial acquisitions and acquisitions of easements or permits where the rights of the lessee are being obviated by the state's take.

C. Any effect on a lease due to an acquisition by the state of access rights only is a matter of adjustment between the lessor and lessee. Such leases are cleared when the loss of access would eliminate the effectiveness of the lease.

D. The state normally does not acquire property subject to an outstanding lease, i.e., assuming the position of the lessor, but may do so subject to the specific approval of the DRES when:

1. The leasehold lies entirely within the take from a single ownership.
2. The lease expires (including any renewal option) before the time the leased rights would conflict with the state's project schedule.
3. Any improvements within the leasehold are owned by the property owner (lessor).
4. The owner (lessor) is furnishing no services to the lessee.
5. The owner has agreed to the state's offer for the acquisition, but the lessee refuses to execute a Release of Lease.
6. The lease can be managed by the state.
7. Such action would not increase the cost of the state's project.

8-4.2.3 Procedures

8-4.2.3.1 Identification of Lease Interests

A. The Acquisition Agent:

1. Investigates each lease interest currently in force, verifying between the parties any necessary clarifications of specific lease conditions, rights and responsibilities of the respective parties.
2. Prepares a "Lease Memo" to the Region RESM; Subject: "(Project Title, Parcel Number), Currently Effective Leases" in which he reports the following information prior to any involvement by the state:
   a. Exact names of lessor and lessee.
   b. Current rental terminology and payments.
   c. Termination of lease information:
      (1) Termination date, if specified, or duration of lease.
      (2) Renewal option rights.
      (3) Any self-terminating language or conditions of the lease.
   d. Real property rights leased, (e.g., total property use, specific partial use, land use only, specific type of use, lessee's right to erect structures, etc.).

e. Exact names of vendor and vendee and conditions of ownership under any conditional sale contract or chattel mortgage covering fixtures or trade fixtures attached to the real property, if not covered by the Title Report.

f. Lessee's rights to retain and/or ownership of tangible improvements and/or fixtures.

g. Lessor's and lessee's respective lease responsibilities concerning services such as heating, maintenance, water, electrical, etc.

3. Obtains a copy of each available unrecorded lease identified in Section 8-4.2.3.1A1 and attaches same to the Lease Memo or makes notation on the Lease Memo as to reasons for its nonavailability.

B. By making suitable margin notations on the Lease Memo, the Region RESM, in accordance with Section 8-4.2.2, identifies:

1. Any leasehold interest which is to be cleared by *Release of Lease* or *Partial Release of Lease*.

2. Any leasehold interest which meets all of the conditions of Section 8-4.2.2D (less item 5) for possible assumption by the state as lessor (i.e., acquisition subject to the lease).

8-4.2.3.2 Clearance of Lease Interests

A. Release: The Acquisition Agent:

1. Obtains the signature of the lessee on a *Partial Release of Lease* (Form RES-312) or *Release of Lease* (modeled on Form RES-312) as indicated on the Lease Memo (see Section 8-4.2.3.1B1).

2. If the lessee has or claims a leasehold value, advises the owner (lessor) and obtains the signature of the lessee on the principal *Real Property Voucher* along with the signature of the owner (lessor) without breaking down the amount payable to each.

Note: **The approved compensation includes the value of all interests.**

B. Lessee's Property: If the lessee owns improvements or is purchasing trade fixtures (under recorded or unrecorded conditional sales contract or chattel mortgage) and which fixtures are attached to the real property that is affected by the state's acquisition (as covered by Section 8-4.2.3.1A2e and f), the Acquisition Agent, (in addition to the procedures in Section 8-4.2.3.1A):

1. If not covered by the Reviewing Appraiser's DV, requests that the Region RESM provide a listing of all such lessee-owned property and its value as included in the approved compensation.

2. Advises the owner (lessor), deducts the value of said lessee's property from the principal *Real Property Voucher*, and obtains the lessee's signature on a second voucher covering only the property of the lessee being purchased by the state.

3. Obtains the lessee's signature on a *Fixtures and Improvements Agreement* (Form RES-335) covering only the lessee's property.

4. If the lessee is purchasing his property under a conditional sale contract or a chattel mortgage:

a. Obtains the signature of the seller or mortgagee on the "secondary" *Real Property Voucher* (see Section 8-4.2.3.2B2) without breaking down the amount payable to each signatory.

b. Obtains the signature of the seller or mortgagee on the *Fixtures and Improvements Agreement* (Form RES-335).

5. If the fixtures are being purchased by the lessee on a conditional sale contract where the fixtures vendor retains title until the contract is paid in full, requests that the fixtures vendor execute, for the lessee, his standard satisfaction of the conditional sale contract and obtains a copy of same to be included in the transaction package.

6. If the fixtures are being purchased by the lessee subject to a chattel mortgage, requests that the mortgagee execute, for the lessee, his standard satisfaction of the chattel mortgage.

   a. If the chattel mortgage is not recorded, the acquisition agent obtains a copy of such satisfaction for inclusion in the transaction package.

   b. If the chattel mortgage was recorded, the acquisition agent requests that the satisfaction be appropriately recorded, obtains the recording date and auditor's file number of the satisfaction and recites same in his *Encumbrance Report* (see Section 8-2.1.2C).

7. If access rights are acquired in the instrument from the owner, they must also be acquired in the Release from the lessee.

8-4.2.3.3 Acquisition Subject to Lease

A. When the Acquisition Agent has reached agreement with the owner of land to be acquired, but finds that it is subject to a lease which the lessee refuses to release, and *all* the conditions of Section 8-4.2.2D are present (see also Section 8-4.2.3.1B2), he requests the Region RESM to obtain the approval of the DRES for acquisition subject to the lease.

B. The Region RESM, by memorandum setting forth all the facts called for by Section 8-4.2.2D, requests approval of the DRES for acquisition subject to the lease. If such approval is obtained, directs the Acquisition Agent to acquire subject to the lease; if approval is not forthcoming, directs the Acquisition Agent to turn the parcel in for condemnation.

C. If the Acquisition Agent is directed to acquire subject to the lease, he obtains execution of the appropriate instrument from the owner (lessor), including therein the following clause:

   Note: "Also the grantors herein release and assign unto the state of Washington all of said grantor's rights and responsibilities as lessor in and to that certain lease by and between the grantor (as lessor) and (name of lessee) (as lessee) dated _____ and recorded _____."

8-4.3 Utilities

8-4.3.1 General

Public and private utility companies may hold easements and/or fee interests in nonoperating properties and in operating properties (rights of way) for construction and operation of their services. Utilities may be underground, at grade, above grade or combinations thereof. The state is obligated to make reasonable accommodation of utilities, avoiding disruption of operating systems in the public interest.

8-4.3.2 Rules

The relocation and reestablishment of public services furnished by railroad and other utility companies to accommodate the state's transportation projects are the responsibility of the Region Utility Engineer and the Headquarters Design Engineer (as to railroads) or the Project Development Engineer (as to other utilities). Since such relocations and/or reestablishments often involve clearance and/or readjustments of real property interests close liaison with the Deputy DRES (or designee) is required.

8-4.4 Private Easements

8-4.4.1 General

A private easement is a property right which enables one party to use property owned by another party. To be fully binding, an easement must be in writing just as any other conveyance in real estate. The benefited parcel is the dominant tenement and the encumbered parcel is the servient tenement. An appurtenant easement right will travel with the conveyance of the benefited parcel, even if not mentioned in the conveyance.

8-4.4.2 Rules

A. The state recognizes a private easement when it is evidenced by either:

1. An existing enjoyment of a property right by one party over a property owned by another party.
2. A written (recorded or unrecorded) document.

B. An easement right affected by the state's acquisition is cleared or adjusted as to the encumbered parcel by acquisition of such easement rights as are appropriate from the benefited parcel.

C. When the state acquires all of both the dominant and the servient tenements, or all of the dominant tenement and so much of the servient tenement as contains the easement, the interests merge and the easement may be ignored. (See Section 8-4.4.3C below.)

8-4.4.3 Procedures

A. The Region RESM:

1. Determines the location of all private easements affected by a highway as a part of the Project Inspection (see Chapter 6).
2. Identifies any easement which obviously has no bearing on the property as it currently exists (e.g., 1880 irrigation easement encumbering land presently developed to commercial use) and:
   a. Requests that the Assistant Director of the Title and Condemnation Program ignore such easement.
   b. Makes a full explanation in the *Encumbrance Report* (see Section 8-2.1.2C.)
3. Identifies the ownership(s) benefited by the easement.
4. a. On nonlimited access projects, identifies situations wherein ownerships (from which there is to be no acquisition) are benefited by an easement across a servient parcel from which there is to be an acquisition and a functional replacement of the service provided by the easement. Coordinates with the Assistant Director of the Title and Condemnation Program on the procedure for clearing the easement encumbering the servient parcel by appropriate instruments from the owners of all the benefited ownerships.

b. On limited access projects, directs the clearance of the easement with respect to all benefited parcels from which access rights must be acquired pursuant to Chapter 6.

B. The Acquisition Agent assigned to the encumbered parcel:

1. Coordinates with the Region RESM on cases relating to Section 8-4.4.3A.
2. Identifies the location of the easement in relation to the property being acquired (see Section 8-4.4.3A1).
3. Acquires the property and/or property rights called for by the state's project plans.
   a. If a special procedure is prescribed pursuant to Section 8-4.4.3A4, follows pertinent instructions.
   b. If no special procedure is prescribed (Section 8-4.4.3A4), obtains the instrument normal to the acquisition called for by the project plans. No special instrument or instrument clause is required.
4. Makes appropriate notation in his Encumbrance Report (see Section 8-2.1.2C) to cross-reference the transaction to the benefited ownership(s) or parcel(s).
5. If the benefited ownership is not a parcel, clears the encumbrance as indicated in C1, below.

C. The Acquisition Agent assigned to the benefited parcel(s) obtains (an) instruments in accordance with the following:

1. Benefited parcel is outside the state's acquisition:
   a. If special procedures are prescribed pursuant to Section 8-4.4.3A4, follows pertinent instructions.
   b. If no special procedures are prescribed (Section 8-4.4.3A4), obtains a Quit Claim Deed (modeled on Form RES-306 et seq.) from the parties in interest in the benefited parcel, conveying to the state of Washington " . . . all rights in and to that certain easement as in Auditor's File No. _____ that lies within the following described real estate situated in _____ County . . ." The Quit Claim Deed is completed to include the standard highway project heading, legal description (of the encumbered parcel) etc., in accordance with Section 9 et seq.
2. Total Acquisition of Benefited Parcel: Obtains the normal instrument (see Chapter 6) appropriate to the total acquisition as called for by the project plans. No special instrument or instrument clause is required.
3. Partial Acquisition of Benefited Parcel: Obtains the normal instrument (see Chapter 6) appropriate to the partial acquisition as called for by the project plans in which instrument he also includes the language " . . . together with easement as in Auditor's File No. _____."
4. Makes appropriate notation in his Encumbrance Report (see Section 8-2.1.2C) to cross-reference the transaction to the encumbered parcel(s).

8-4.5 Mineral Rights

8-4.5.1 General

A mineral right or reservation is generally a right of exploration and/or franchise to the subsurface as compared to mining claims or oil and gas leases. A mining claim is a form of surface ownership and is discussed in Chapter 6. An oil or gas lease is handled in the same manner as any other type of lease as discussed in Section 8-4.2.

The rights of ownership held by the fee holder include subsurface mineral rights unless such subsurface rights have previously been conveyed or otherwise reserved (severed) from the fee ownership. The state's power of eminent domain is capable of stopping any exercise of subsurface rights potentially detrimental to the state's project.

8-4.5.2 Rules

A. Mineral rights which have not been previously reserved (severed) from the fee are automatically acquired with the fee conveyance to the state, unless the owner insists on retaining them by the reservation clause in Section 9.

B. Mineral rights which have been reserved (severed) from the fee are:

1. Ignored if the property is in an area in which subsurface exploration or interest is not apparent.
2. Cleared or adjusted in the state's acquisition:
   a. If the property is in a known or suspected mineral rich area.
   b. If there are observed mining operations in the area.
3. Included for acquisition in any formal condemnation action or if the holder of such right is also the holder of a fee interest to be acquired within the project.

8-4.5.3 Procedures

A. The Region RESM:

1. Determines if mineral rights interests and/or explorations are apparent as a part of the project inspection (see Chapter 6).
2. Reviews the appraisal report(s) and/or the applicable *Determinations of Value* (Form RES-214) and assures inclusion of any actual value of mineral rights in the approved compensation.
3. If there is any question of mineral rights activity, submits the problem to the Assistant Director of the Title and Condemnation Program for a project-wide determination of necessity for clearance or adjustment.
4. Assigns acquisition in accordance with the determinations made pursuant to Sections 8-4.5.2 and 8-4.5.3A3, recognizing that one encumbrance may affect several parcels.

B. The Acquisition Agent:

1. Determines the present ownership of the outstanding (severed) mineral rights which are assigned to be cleared or adjusted.
2. If the appraisal data and reports conclude that there is no value attributable to mineral rights, determines if the rights can be readily acquired or adjusted either by donation or for a nominal consideration (up to $500).

a. If severed mineral rights can be readily acquired, obtains a Quit Claim Deed from the holder of such rights using the same description used to purchase the required right of way, and if applicable, a *Real Property Voucher* in accordance with Chapter 10.

b. If such rights can be adjusted (if the holder insists on reserving mineral rights), obtains a Quit Claim Deed using the same description used to purchase the required right of way, reserving to the holder the subsurface rights by special instrument clause in accordance with Chapter 9, and if applicable, a *Real Property Voucher* in accordance with Chapter 10.

3. If the appraisal reports conclude that there is value attributable to mineral rights, may either:

   a. Join the holder of such rights with the fee holder on the normal instrument and *Real Property Voucher*.

   b. Handle in accordance with Section 8-4.5.3B2.

4. If mineral rights cannot be acquired, reports the facts to the Region RESM in the *Diary of Right of Way Activities* (Form RES-301), and, as advised by the Region RESM may either:

   a. Turn the transaction over to the Region RESM for administrative handling in accordance with Chapter 6, or

   b. Complete a condemnation report in accordance with Chapter 6, as appropriate.

8-4.6 Water Rights

8-4.6.1 General

The right of any person to private use of the water resources within the state is controlled by state law. While specifically providing for the preservation of water rights existing at the time of the adoption of the state law (RCW 90.03), such law sets out that all waters within the state belong to the public and any right thereto, or to the use thereof, shall be acquired for a beneficial use and only in the manner provided by law. Even though the state law provides for certain differences between rights in "surface waters" as opposed to "ground waters," there is no basic difference requiring separate procedures in acquisitions for highway projects.

Note: Riparian/littoral rights are not included in the subject addressed here (see Section 8-4.1).

8-4.6.2 Rules

A. The state recognizes water rights evidenced by either:

   1. An existing beneficial use of water resources by way of private diversion.

   2. A "Water Right Claim" filed with the Department of Ecology or one of its predecessors.

   3. A "Permit" issued by the Department of Ecology or one of its predecessors.

B. A water right is an encumbrance if the state's acquisition leaves a remaining property that is physically or functionally severed from an existing water right of measurable value to such remaining property.

8-4.6.3 Procedures

8-4.6.3.1 Identification of Rights Affected

A. The Region RESM:

1. Determines if a water right exists on each affected parcel, pursuant to information received through any appropriate combination of the following:
   a. Title reports.
   b. Field observations including but not limited to those made by the Region Project Development Engineer, and the Project Inspection (see Chapter 6).
   c. Appraisal reports.
   d. Discussions with the parties in interest.
2. Determines if the water right is endangered or severed by virtue of the highway project.
3. Investigates all feasible methods for future water service including, but not limited to, the following:
   a. Reconnection to the self-same source by passing through or preserving same within the state's project.
   b. Connection with a suitable existing alternate source such as a neighbor or community system.
   c. Replacement and connection with a new source by entering into an agreement with the parties at interest.
   d. Leaving the present system alone.
4. Determines suitable action for future water service which may include, but is not limited to:
   a. A construction item for reconnection or new connection (see Chapter 6).
   b. A *Well Agreement* (Form RES-313) for replacement.
   c. Acquiring the affected rights which may include acquiring a remainder or paying damages.
   d. Ignoring rights not expected to be affected.
5. Submits to the Region RESM, a written request for a test and report on each existing endangered domestic source as to capacity and potability, identifying each case by project title, parcel number, name of owner, address of property, type of existing source (e.g., private well, community well, etc.) and location of the respective sources.

B. The RESM forwards each request to the appropriate Region Office of the Department of Ecology, requesting that each reply be directed to the RESM.

C. The Region RESM coordinates with appropriate region personnel and obtains approval by the Regional Administrator on any necessary Construction Memos (see Chapter 6).

8-4.6.3.2 Clearance

The Acquisition Agent:

A. Includes language appropriate to the settlement in the deed and *Real Property Voucher*.

B. If the settlement is by construction item, includes the approved "Memo: Construction Item" (see Chapter 6) in his transaction package.

C. If the settlement is by *Well Agreement*:

1. Advises the parties at interest that it is the state's intent to compensate on the basis of a replacement, not a betterment, unless betterment is incidental to fulfillment of the state's obligation.

2. Obtains execution of a *Well Agreement* by the parties at interest.

3. Prepares and submits the complete transaction package including the original Department of Ecology water report (see Section 8-4.6.3.1B). Retains a copy of the *Diary of Right of Way Activities* (Form RES-301).

4. Upon completion and testing of the new system by the owner and/or his agents, obtains the following from the owner:

   a. An itemized account of the charges in accordance with the specifications in the *Well Agreement*.

   b. Execution of a *Real Property Voucher* in accordance with Section 10, covering the costs chargeable to the state in compliance with the specifications of the *Well Agreement*.

   c. Execution of a *Release of Damages* (Form RES-315) as specified in the *Well Agreement*.

   d. A statement by the installer of the pump which specifies the actual capacity of the re-established water system.

5. Prepares and submits a supplemental transaction package containing the items specified in Section 8-4.6.3.2C4, using *Right of Way Acquisition Transmittal*, and including therewith the completed, signed and dated copy of the *Diary of Right of Way Activities*.

8-4.7 Reservations, Restrictions, and Defects

8-4.7.1 General

Deed restrictions, deed reservations, plat restrictions, and defects in prior conveyances are generally reported as encumbrances in the title report. Some of these restrictions or reservations may be of the same nature and effect as easements, mineral reservations, or other rights subtracting from fee simple title. A defect in a prior conveyance may involve a reversionary right, a will restriction against sale to outside parties, or other unusual circumstances. Most restrictions on the use of property as contained in a plat or in a deed are surpassed by the state's higher right of Eminent Domain.

8-4.7.2 Rules

A. Reservations, restrictions, and title defects are individually analyzed as to any encumbering effect on the state's acquisition.

B. Encumbrances are cleared or adjusted in accordance with suitable procedures.

8-4.7.3 Procedures

A. The Region RESM:

1. Analyzes reservations, restrictions, and defects and identifies those which affect the state's acquisition.
2. If the encumbrance has the same effect as another property-rights type encumbrance covered in Section 8-4, handles such encumbrance in accordance with the section governing that type of encumbrance.
3. If the encumbrance does not have the same effect as any other property-rights type encumbrance covered in Section 8-4, coordinates with the Assistant Director of the Title and Condemnation Program on handling appropriate to the individual case.
4. If the reservation, restriction or defect does not affect the state's acquisition, instructs the Acquisition Agent to ignore the reported encumbrance.

B. The Acquisition Agent:

1. Handles encumbrances in accordance with instructions by the Region RESM as in A, above.
2. Makes appropriate explanations in his Encumbrance Report (see Section 8-2.1.2C).

8-4.8 Vacated Streets and Roads

8-4.8.1 General

A. Streets and roads are vacated by either city or county ordinance. Such vacations will be noted in the PC.

B. If applicable, the *Nonuser Statute* (RCW 36.87.090) may be used as the basis to vacate a platted street.

Note: The state of Washington has no statutory authority to vacate any road, street, or highway. The *Nonuser Statute* is permissive only and action thereunder must be taken by the city, county, or courts to perfect title.

8-4.8.2 Rules

A. A recorded claim of title to a vacated street will appear in the PC, and is cleared by the Acquisition Agent in the course of the negotiations with the abutting owner (i.e., the property owner to whose lands the vacated street or road "attaches by operation of law").

B. A nonrecorded claim of title to a vacated street or road must usually be perfected by a court decree.

C. The *Nonuser Statute* permits the vacation of a street or road under the following circumstances:

1. If the street is dedicated by a plat:
   a. The plat must have been recorded prior to March 12, 1904.
   b. <u>The</u> plat must have been outside the corporate limits of a city or town at the time of platting and for five years thereafter.
   c. The streets dedicated on the plat must have remained unopened for a five-year period prior to March 12, 1909.

2. If the street or road is not dedicated by a plat:
   a. The street or road must have remained unopened for public use for a period of five years after the order is made or authority granted for opening it.
   b. The lands must have not been conveyed to the state, or to any county, city or town for highways, streets, roads, alleys, or other public places.

8-4.8.3 Procedures

A. The Acquisition Agent:
   1. If the PC indicates that a vacated street (or portion thereof) is attached to the parcel by operation of law, includes any required portion of the vacated street in the description of the acquisition from the property owner (see Section 9-9.4).
   2. If the property owner has an unrecorded claim to an unopened street or road, obtains information on the owner's claim and refers the matter to the Region RESM for further action.

B. The Region RESM:
   1. Coordinates with the Assistant Director of the Title and Condemnation Program to determine the appropriate course of action (e.g., condemnation, allow the claim, and obtain a new appraisal).
   2. Instructs the Acquisition Agent as to required procedures.

8-4.9 Prescriptive Streets and Roads

8-4.9.1 General

The legislature frequently adds a county road to the state highway system. When the entire right of way of the county road has been acquired by recorded deeds, waivers, or condemnation actions, the width of the right of way is known. However, many county roads have been acquired by prescription (i.e., without a formal conveyance to the county), and the widths of these roads must be determined when they become a part of the state highway system.

The principle which governs the width of a prescriptive road is set out in the *Matter of the Extension of West Marginal Way* (109 Wn 116). In this case, the city of Seattle sought to widen the existing West Marginal Way (a former county road). The city took the position that the prescriptive right of way was 60 feet wide because that was the width set out in the petition and the County Commissioners' order which established the road. Sixty feet was also the maximum width permissible for county roads under the statute during the prescriptive period. The abutting property owners argued that the city could only claim title to the actual width of the travelled way (approximately 10 to 15 feet). The State Supreme Court upheld the city's position and stated that: "The county actually laid out and surveyed a road 60 feet in width. We think, under the authorities cited, and the facts, which are not disputed, that the county acquired by prescriptive right the whole of the 60-foot road, notwithstanding the fact that but a portion thereof was actually used."

8-4.9.2 Rules

A. When a county road becomes a part of the state highway system, the Region RESM ascertains the width of the right of way so acquired.

B. In the absence of any acquisition instruments, the county road is prescriptive, and its width is determined by the statute applicable at the time the road was created:

1. Territorial law: Section 7, Act of January 11, 1859: "County roads shall be 60 feet in width unless the county commissioners shall, upon prayer of the petitioners for same, determine a less number of feet in point of width."
2. Legislature of 1881, Section 3119, page 578: Continued Territorial law.
3. Laws of 1890, Chapter 19, Section 1: Provided that county roads should be not less than 30 nor more than 60 feet in width.
4. Laws of 1925, Ex. Sess., Chapter 173, Section 3: Provided that county roads should be not less than 30 nor more than 120 feet in width.
5. RCW 36.68.010: county road rights of way designated as being 60 feet in extremities and 30 feet on each side of the centerline of the road, unless the commissioners elect a different width.

C. The period of uninterrupted public use required to establish a road as a public highway is seven years if the county is performing maintenance on the right of way (RCW 36.75.070), and is ten years if there is no county maintenance (RCW 36.75.080).

8-4.9.3 Procedures

A. When a county road becomes a part of the state highway system, the Region RESM:

1. If the road was previously on the state highway system, sends an *Intra-Departmental Communication* to the Assistant Director of the Title and Condemnation Program requesting information on the status of the road.
2. If the road was not previously on the state highway system, or if the Assistant Director of the Title and Condemnation Program so requests, ascertains the width of the right of way by:
   a. Searching for deeds, waivers, condemnation actions, or other acquisition instruments.
   b. Searching the county commissioners' records to determine whether the road was established by petitions and county commissioners' orders. If so, determines that the width was within the limits of the applicable statute, and that the proper period of public use exists (see Section 8-4.9.2).

B. The Assistant Director of the Title and Condemnation Program submits to the District RESM a status report on the road upon request (see Section 8-4.9.3A1).

8-4.10 Riparian/Littoral Rights

A. The rights of a riparian/littoral owner (see Chapter 3) may be so effected by the state's proposed acquisition as to require clearance thereof as an encumbrance on the state's acquisition. Such rights will seldom be set up in the Title Report, but should be the subject of concern by the Acquisition Agent whenever the property or property rights to be acquired include the bed or banks of a stream, river, lake, or ocean.

B. Most adverse effects of the state's acquisition will occur downstream from such acquisition (e.g., change in water flow, change in channel causing bank cutting, etc.), but some may occur upstream (e.g., back-up flooding).

C. The nature of "riparian/littoral rights" are so complex and an adverse effect on them occurs so seldom (when not part of the plan) that the Acquisition Agent should in all cases consult with the Region RESM and/or the Assistant Director of the Title and Condemnation Program if any question should arise in his mind on this subject. He should also enter into such consultations if the Title Report should raise such a question.

D. Clearance is obtained, usually by Quit Claim Deed (of riparian/littoral rights appurtenant to the effected property), in accordance with instructions received from the Region RESM or the Assistant Director of the Title and Condemnation Program.

E. Compensation for loss of effected riparian/littoral rights is determined through the appraisal process.

8-5 Personal Rights Encumbrances

8-5.1 Life Estate

8-5.1.1 General

A title report may disclose the existence of a life estate either by virtue of the vesting, or by a paragraph within the body of the report. A life estate is a possessory right in real property held for the life of the holder. The parties in interest are the holder of the life estate (holder) and the holder of the remainder (remainderman), or if there are no remaindermen named, then upon termination of the life estate, the possessary right returns to the grantor and is referred to as a reversion.

Although a life estate may have value, such value is but a part of the total value of the fee ownership. The division of the value of the fee ownership to determine the value of the life estate is a matter of negotiation between the holder and the remainderman.

8-5.1.2 Rule

The state recognizes all parties in interest.

8-5.1.3 Procedures

The Acquisition Agent:

A. Investigates to determine which party (holder or remainderman) is in possession.

1. If holder is in possession, determines address of remainderman.
2. If remainderman is in possession, determines if holder is alive or deceased.
   a. If holder is deceased, determines date and place of death, and secures copy of death certificate if available to remainderman. Otherwise, corresponds with appropriate officials at place of death to secure copy of death certificate.

      Note: Such death terminates the life estate; hence no acquisition (of the life estate) from the heirs of the deceased is necessary.

   b. If holder is alive, determines address.
3. If neither is in possession, determines interest claimed by possessor and facts concerning status and addresses of holder and remainderman.

B. If both holder and remainderman are alive, either:

1. Joins the parties in interest on both the deed and *Real Property Voucher*, or
2. Joins the parties in interest on the deed which includes the appropriate clause authorizing payment to a specific party (see Section 9) and obtains execution of the *Real Property Voucher* by the party authorized on the deed, and if neither holder nor remainderman are in possession, clears interest of possessor as the nature of his interest dictates (see Section 8-4.2).

3. As an alternate to 1 and 2 above, the signatures of the holder and remainderman may be taken on separate deeds and either a single *Real Property Voucher* or separate *Real Property Vouchers*, provided that, in the latter case, a written agreement of a mutually satisfactory distribution of funds is available for inclusion in the transmittal package. The payment due one party is shown as a deduction from the total amount due, and the second voucher made in the amount of the deduction.

C. If holder is deceased, obtains execution of deed and *Real Property Voucher* by remainderman (or remaindermen) only and clears holders interest by including copy of death certificate in the transmittal package.

D. If for any reason (except the death of the holder) it is impossible to secure the signatures of both the holder and the remainderman or the remainderman's heirs and devisees if deceased, the interests of all parties are acquired through condemnation action.

8-5.2 Incompetent, Mentally Ill, and Insane Persons

8-5.2.1 General

A. It is a fundamental precept of law that in order for any person to enter into a binding legal contract transaction or obligation, that person must be *legally competent*.

B. In general, there are two categories of *Persons* considered incapable of legally entering into a legal and binding contract. They are:

1. Minors, persons under legal age; and
2. Persons who although of legal age, are suffering from some form of mental illness or other disability which renders them incapable of comprehending and understanding the consequences of their acts.

C. A person could be, in fact, incompetent at the time he signs a deed conveying the title to his property and, if he had never been legally adjudged incompetent, there would be *no record notice* of the fact of incompetency and persons later dealing with the property would not know that the validity of the deed is doubtful and that it might be declared void by proper court proceeding, due to the incompetency of the grantor.

D. Every person is presumed sane and competent until adjudged insane or incompetent by a court of competent jurisdiction. Therefore, unless there is an adjudication of insanity or incompetency, or unless sources, other than a mental illness proceeding disclose insanity or incompetency, the question of the legal capacity of the parties executing instruments cannot be raised.

8-5.2.2 Historical Background

For many years, under the mental illness statutes then in force (RCW 71.02.650) the order of the Superior Court declaring a person to be mentally ill and ordering hospitalization created a presumption of incompetency which status continued until such incompetent had been certified as discharged as recovered.

8-5.2.3 1973 Mental Illness Act

A. Effective Date:

The legislature passed a new comprehensive mental illness act which became effective January 1, 1974.

B. Repeal of Prior Law:

The new act repealed the entire prior mental illness — commitment procedure statute (RCW 11.02) except the sections having to do with hospital charges and except RCW 71.02.490 pertaining to federal agencies and RCW 71.02.900 concerning construction and purpose.

C. Court Order — Effect:

Under the new act, the court order entered in a mental illness case *does not adjucate incompetency*. It only commits the person for *treatment and evaluation.*

D. Competency, Mental Illness, Effect:

A person subject to confinement resulting from any petition or proceeding pursuant to the provisions of this chapter (*1973 Mental Illness Act*) shall *not* forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided therein.

Competency *cannot be determined or withdrawn* by operation of, or under the provisions of the new act.

No person shall be presumed incompetent or lose any civil rights as a consequence of receiving evaluation or treatment for mental disorder either voluntary or involuntary or certification or commitment pursuant to this act *or any prior laws* of this state dealing with mental illness.

It is obvious from the foregoing that the commitment of a mentally ill person for hospitalization under the new act cannot affect the legal competency of such person or his right to sign contracts and dispose of his property. This, therefore, leaves us in the position of relying upon the basic presumption of competency mentioned in Section 8-5.2.1D.

However, the foregoing should *not* be confused with a *guardianship* proceeding in which a court makes a finding of incompetency.

E. Property and Contract Rights:

Insofar as imminent danger to the individual or others is not created, each person *involuntarily* detained, certified or committed for treatment and evaluation pursuant to this chapter (*1973 Mental Illness Act*) shall have, in addition to other rights not specifically withheld by law, certain enumerated rights which list shall be posted in all facilities, institutions and hospitals.

The list of such rights includes the right:

"To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue."

F. Conclusions and Comment:

The following conclusions are fairly clear:

> A commitment under the act does not affect the legal competency of the person committed. However, all that provision did was to restore the continuation of the presumption of sanity following the commitment, a presumption which may be controverted by the facts. It is still possible, therefore, for a person who has been committed under this act to be legally incompetent at the moment he or she

is called upon to sign a deed, mortgage, or contract because *at that time* he or she may be temporarily unable to comprehend and understand the consequences of his or her act. If a person at the time of signing a legal document is unable to understand and comprehend the consequences of his act he is not competent to sign the document.

8-5.2.4 Procedures

A. Party of interest has been adjudicated incompetent through a court determination.

1. Agent proceeds with acquisition through the incompetent party's court appointed guardian. (See Chapter 6 for procedures.)

B. It is suspected that interested party may be incompetent.

The Acquisition Agent:

1. Obtains all information available regarding relatives of said party and means of contacting them.
2. Refers all pertinent data to the Region RESM.

The Region RESM:

1. Reviews all data submitted by the Acquisition Agent and also may:
   a. Contact relatives of interested party for additional information.
   b. Refer matter to the Assistant Director of the Title and Condemnation Program for recommendations.
2. Directs the Acquisition Agent as follows:
   a. To proceed with negotiations without questioning competency of interested party.
   b. To submit parcel for condemnation so that question of competency may be resolved as a part of the court action and a guardian ad litem appointed, if necessary.

8-5.3 Minors

8-5.3.1 General

A. All persons are deemed and taken to be of full age for all right of way purposes at the age of 18 years (RCW 26.28.010). All persons married to a person of full age are considered to be of full age (RCW 26.28.020).

B. A conveyance by a minor is not void but merely voidable (i.e., the minor may disaffirm a conveyance within a reasonable time after reaching majority).

C. A sale of real property owned by a minor may be consummated by a general guardian or a guardian ad litem appointed for that purpose when the guardian acts through the court.

8-5.3.2 Rule

The state accepts a conveyance involving significant value from a minor only through the services of a properly authorized guardian.

8-5.3.3 Procedures

The Acquisition Agent:

A. If the party in interest is a young person, requests evidence of majority (e.g., drivers license, birth certificate, marriage license, etc.).

B. If the party in interest is a minor, handles the transaction directly with the minor only when the following condition is met:

1. The property and/or rights required by the state have a value of $1,000 or less, and the Assistant Director of the Title and Condemnation Program authorizes the transaction be made.

C. If the party in interest is a minor and Section 8-5.3.3B does not apply, handles the transaction in accordance with Chapter 6.

8-5.4 Dissolution of Marriage (Divorce)

8-5.4.1 General

A. Dissolution of a marriage is the legal separation of a husband and wife by the court. The status of the community property is unaffected until the marriage is terminated on the date of entry of the Decree of Dissolution subject only to the expiration of a 30-day appeal period. If no Decree of Dissolution is entered, the filing of the legal action has no effect on the status of the parties' property.

B. A Decree of Dissolution may include a disposition of the property of the parties including the separate property of either party, and is effective to decide the property rights of either party.

1. If community property is not awarded to either party, the parties are legally "tenants in common."

2. If, prior to the decree, property is vested as the separate property of one of the parties and the property is not mentioned in the court action, the property remains the separate property as last vested.

3. If the court action took place in another state, the validity of any award of property in this state is questionable for lack of jurisdiction.

C. A lump sum judgment against either party awarded in the decree, becomes a lien against that person's property, but if the lump sum judgment was entered in another state, it is not a lien against property in this state until the foreign judgment has been registered in this state and additional proceedings completed to levy on the local property (RCW 6.36).

8-5.4.2 Rules

A property settlement granted by any county in this state is valid as to the award or division of real property in all counties in the state.

8-5.4.3 Procedures

A. The Acquisition Agent:

1. Obtains from the parties in interest, information concerning current marital status and any related property settlement.

2. If the field inquiries indicate a conflict with the disclosures in the title report, obtains the following information from the parties at interest:

a. Place of the court action (county, state).

b. Date of the decree.

c. Full names of the parties to the dissolution.

3. Submits the information to the Region RESM and requests further instructions.

B. The Region RESM:

1. Makes the following determination:

a. Whether a decree has been entered.

b. Whether the appeal period has expired.

c. Whether the property in question was awarded in the court action.

d. Whether, and against whom, a judgment was entered in the court action.

2. Submits any relevant information to the title company and requests an SPC.

3. Provides the Acquisition Agent with any necessary special instructions.

C. The Acquisition Agent closes the transaction dealing with the parties in accordance with any special instructions and the following, as applicable:

1. If the property was community property and not awarded in the court action, joins both parties in a normal conveyance as tenants in common (see Chapter 9).

2. If the property was vested as the separate property of one of the parties and the property is not mentioned in the court action, obtains a normal conveyance from the party as his or her separate property (see Chapter 9).

3. If the property was awarded in the court action, obtains a normal conveyance from the party to whom the property was awarded as separate property (see Chapter 9).

4. If the court action took place in another state, joins both parties in a conveyance and/or in accordance with special instructions (see Section 8-5.4.3B3).

8-5.5 Death

Acquisition from the estate of a decedent is achieved using one of the following general procedures:

8-5.5.1 Probate

If the estate is being probated, the Acquisition Agent:

A. Confirms that the probate has been filed by obtaining an SPC (see Section 8-5.5.3C).

B. Deals with the Administrator, Executor, or Personal Representative of the estate through the attorney disclosed representing the estate.

C. When the title report shows that the probate is complete except for payment of the state inheritance tax and/or the federal estate tax, the Acquisition Agent proceeds as described in Section 8-5.5.1B, except that a letter guaranteeing payment of the taxes is obtained in addition to the usual instruments.

8-5.5.2 Reserved

8-5.5.3 Lack of Probate

If the estate is not probated:

A. The Region RESM obtains an “Affidavit Re: Lack of Probate” form from the title company that issued the title report.

B. The Acquisition Agent:

1. Assists the decedent's surviving spouse or nearest relative in completing the affidavit.
2. Makes a copy of the affidavit and returns the original to the Region RESM.

C. The Region RESM obtains an SPC that indicates who can convey title and the basis upon which the title company will insure that title.

D. The Acquisition Agent deals with the heirs named in the SPC and joins them on the instrument to the state.

E. If an heir cannot be located:

1. The Acquisition Agent submits a written summary in his *Diary of Right of Way Activities* to the District RESM discussing the extent of the search.
2. The Region RESM:
   a. Coordinates with the Assistant Director of the Title and Condemnation Program:
      (1) To determine whether the state is willing to acquire title subject to the interest of the missing heir.
      (2) To obtain specifications for any additional and/or alternate actions suitable to the case.
   b. Inserts and signs appropriate instructions to the Acquisition Agent in the *Diary of Right of Way Activities* and returns same to such agent for completion of action.

8-5.5.4 Community Property Agreement

If the decedent and the surviving spouse executed a community property agreement, the Acquisition Agent:

A. Has the surviving spouse record the community property agreement in the county in which the parcel is located.

B. Assists the surviving spouse in completing the "Affidavit Re: Lack of Probate" (see Section 8-5.5.3).

C. Obtains from the surviving spouse, or from the appropriate officials at the place of death, a copy of the death certificate and furnishes same to the title company.

D. Upon receipt of the SPC (see Section 8-5.5.3C), completes the transaction with the surviving spouse.

8-5.6 Errors in Parties

8-5.6.1 General

At any point in the chain of title where a party has failed to convey or failed to appropriately join in a conveyance, the title report may recite the failure as an encumbrance against current vesting.

8-5.6.2 Rules

A. The state investigates potentials for clearing any encumbrance due to prior errors in parties.

B. Prior errors in parties are cleared if the appropriate party can be readily located and agrees to execute the instrument(s) required by the state.

C. As determined by the DRES, prior errors in parties maybe:

1. Cleared by specific court action brought by the state.
2. Ignored, and the state's parcel file documented as to the available pertinent facts.

8-5.6.3 Procedures

A. The Region RESM determines the form of instrument, the language and the parties appropriate to clear the encumbrance (usually a Quit Claim deed, or an affidavit).

B. The Acquisition Agent:

1. Attempts to locate the party indicated in the title report.
2. If he locates the party, requests that the party execute the necessary instrument.
3. If he fails to locate the party or if the party refuses to execute the instrument, submits a written summary to the Region RESM in his *Diary of Right of Way Activities* including:

   a. An explanation of his attempts to secure execution of the necessary instrument.

   b. The date of the instrument/conveyance in fault.

   c. The nature of the interest in fault (e.g., fee, mortgage).

   d. The amount of interest (e.g., fractional, partnership, community property, authority of corporate agent).

   e. Whether full value was paid for the faulty conveyance.

   f. The value of the conveyance required by the state.

C. The Region RESM reviews all information and contacts the Assistant Director of the Title and Condemnation Program requesting instructions.

D. The Assistant Director of the Title and Condemnation Program reviews the information and may request either court action or may waive further action.

E. The Region RESM inserts the instructions on the Acquisition Agent's *Diary of Right of Way Activities* dates and initials same and instructs the Acquisition Agent to, either:

1. Complete a *Negotiator's Report* (Form RES-320), or
2. Complete all other parcel transactions ignoring or handling the error in parties in accordance with any special instructions.

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9-1 General

9-1.1 Introduction

This chapter specifies the instruments of conveyance used by the department, how they are prepared, and the standard, the special, and/or the variable language used therein. The types of instruments most commonly used are preprinted, fill-in forms. Unless otherwise specified, all instruments are prepared, signed and acknowledged in such form and manner as to make them eligible for recording with the County Auditor.

Refer to Chapter 6 for types of title or interests to be acquired and appropriate instruments of conveyance.

Refer to Chapter 8 for appropriate instruments for clearing encumbrances.

9-1.2 Rules

9-1.2.1 Language

A. Preprinted forms are used whenever possible. Custom instruments are prepared following the precise wording of the same printed form only when the space available on the printed form is inadequate for compliance with this chapter.

B. Instruments for which there is no printed model are generally custom prepared by the Region Real Estate Services Manager (RESM) on a case by case basis in compliance with the requirements of this chapter and in coordination with the Assistant Director Title and Condemnation Program.

1. The language of the preprinted forms is approved by the Attorney General Division and is adhered to in comparable situations for custom conveyances.
2. In circumstances for which there is no suitable/comparable state form, the state may also employ a preprinted, standard conveyance, affidavit, or other form provided by or acceptable to the title company issuing the PC.
3. The Director of Real Estate Services (DRES) may accept a conveyance in the format or form prepared/required by another agency or major corporate body.

C. The sample instruments illustrated in Chapter 13 serve as models for the instruments used in acquisitions by the state.

9-1.2.2 Composition

9-1.2.2.1 Preprinted Forms

A. Filled in by typewriter, error-free. Minor, clear, and neat pen and ink revisions initialed by all the parties are acceptable.

B. If sheets are appended, they are prepared in accordance with Sections 9-1.2.2.2 and 9-17.

9-1.2.2.2 Custom Forms

A. Paper: White bond, 8 1/2 "↑ x 11"↑ size. Only one side of each sheet is used (reverse blank).

B. Typewritten: Except for the description, the instrument is double-spaced. Acceptable instruments are error-free. Minor, clear, and neat pen and ink revisions initialed by all the parties are acceptable.

C. Margins: Except for the description, margins are one (1) inch.

D. Descriptions: The legal description is typewritten, single-spaced, and has one and one-half ($1^1/_2$) inch margins on both sides.

E. Page Numbering: Each sheet including acknowledgments and exhibits is numbered, centered at the bottom of each sheet, showing both the page number and the total number of pages of the instrument: e.g., "Page 1 of 1 Page," "Page 2 of 4 Pages."

9-1.2.3 Parcel Identification

The applicable parcel number(s) is (are) inserted on the lower right-hand corner of each sheet of an instrument; e.g.," "Parcel No. 8-12345."

9-2 Elements (Paragraphs)

Unless otherwise specified and/or illustrated in this chapter, the elements of an instrument include all of the following:

A. Function Title (see Section 9-3).

B. Federal Aid Project Number (FA No.) (see Section 9-4).

C. Project Number and Title (see Section 9-5).

D. Party Clause (see Section 9-6).

E. Consideration (see Section 9-7).

F. Conveyance Clause (see Section 9-8).

G. Property Description (see Section 9-9).

H. Miscellaneous Clauses (see Section 9-10).

I. Occupancy Date Clause (see Section 9-11).

J. Delivery Clause (see Section 9-12).

K. Date of Instrument (see Section 9-13).

L. Execution (see Section 9-14).

M. Acknowledgment (see Section 9-15).

N. Acceptance and Approval (see Section 9-16).

9-3 Function Title

A. The title of the instrument is a clue to the function the instrument performs, e.g., Warranty Deed, Lease, Agreement, etc.

B. The specific function of an easement, permit lease or option is also inserted in the title, e.g., Easement for Haul Road, Permit to Install Irrigation Facility, Lease for Borrow Site, Option to Purchase Lands, etc.

9-4 Federal Aid Project Number

If federal participation is involved, the Federal Aid Project Number (FA No.) is inserted to the right of the function title. When a project on a federal aid route does not involve federal participation, the FA route and section are inserted and followed by a blank space enclosed by parenthesis, e.g., RF-037-2( ). When federal participation is not expected on a sundry site, the FA number is omitted. A detailed explanation of the FA number is given in Chapter 3.

9-5 Project Number and Title

The official project number (see Chapter 3) for which real property or property rights are being acquired is inserted at the head of every instrument to the state immediately below the Federal Aid Project Number. The project title, using the exact wording and/or abbreviations (but omitting the mile post identification) which appear on the Right of Way Plan is inserted on every instrument to the state.

9-6 Party Clause

9-6.1 General

The Party Clause identifies the parties who are making the conveyance. They are usually (but not necessarily) identified as "grantors" in deeds, easements, and permits, as "lessors" in leases, etc. The name(s) of the "grantor(s)" are generally shown so as to agree with the name(s) of such person(s) as they acquired title to the property being conveyed.

The Party Clause, e.g.,

> "The Grantors, John Doe and Jane Doe, husband and wife . . ."

also answers or resolves questions of the grantor's (1) identity, (2) marital status, (3) relationship between persons, and (4) the estate or interest held by the grantors.

9-6.2 Corrective Identity

If the grantor's correct name is questioned in the PC or if the Acquisition Agent finds the PC to be inaccurate as to identity, the party clause is used in the state's instrument to show the correct name of the grantor.

A. If the identity as vested in the PC was correct and the identity of alternate similar names are questioned and found to be the same person, the party clause is used to clarify the identity. The correct name appears first, followed by the alternate names as follows:

   1. ". . . John Doe, also appearing of record as J. Doe . . ."

B. If the grantor's current identity is more correctly or accurately established than by the vested name in the PC, the following examples are adapted:

   1. ". . . John Olson, who acquired title as John Olsen . . ."
   2. ". . . John B. Doe, who acquired title as John R. Doe . . ."
   3. ". . . Mary Doe, who acquired title as Mary Jones . . ."

      Note: This form is for a woman who has married since acquiring title.

   4. ". . . Charles Martin, who acquired title as Carlos Martino . . ."
   5. ". . . John Doe Company, which acquired title as John Doe Co., . . ."
   6. ". . . John Doe, Inc., which acquired title as John Doe and Sons . . ."

9-6.3 Marital Status

A. Because Washington is a community property state, any deed taken by either spouse of a marital community (except as provided in B. below) becomes automatically the community property of both, and the interests of spouses (and former spouses) must be acquired or eliminated. Hence, considerable importance is attached to the correctness of a statement regarding marital status in the Party Clause. The vesting in the PC is the starting point, for the title company insures the state that the named vestee can convey good title, but if the marital status of the vestee is questioned by a comment or encumbrance

or has changed since he/she acquired title, an investigation of the marital facts is required. The object is to arrive at a Party Clause which shows the currently correct names as grantors on the state's instrument (see Section 9-6.2) followed, if necessary, by (1) a statement of the currently correct marital status, and (2) if applicable, a statement clarifying the interest held.

B. A person who acquires land while single, or as a gift or an inheritance even while married, owns the land as his/her separate estate, and the joiner of the spouse is not required, although it is good practice to secure the spouse's signature as a precautionary measure. If there should be any resistance by the spouse to signing, such signing may be waived but only after ascertaining that the couple has not entered into a Community Property Agreement. If a Community Property Agreement has been executed, but not recorded in the county in which the required real property lies, a copy should be obtained and the matter referred to the Region RESM for instructions. If a Community Property Agreement has been recorded in the county in which the required real property lies, it will (usually) be reported in the PC, and both signatures will be required.

C. The following are some of the terms involved in marital status questions and their precise meanings. Whenever possible, the proper term should be used to identify the grantor in our right of way deeds.

1. Widow (Widower) — A woman (man) whose husband (wife) had died.

2. Single or Unmarried — This term includes all persons who are not now married (bachelor, spinster, widow, widower, divorced).

D. On a great many of the titles encountered when acquiring right of way, no question of the marital status of the vestee will be raised by the title company in the PC. A simple investigation by the Acquisition Agent aimed at verifying the marital status shown in the PC will permit him (assuming the fact of verification) to phrase the Party Clause in the exact same language as the vesting. (The facts elicited in his investigation are reported in the *Diary of Right of Way Activities*, DOT Form 260-001.)

E. Where the title company does raise a question concerning marital status (often through the use of the word "presumptively"), or where the investigation (D., above) does not verify the marital status given in the PC, the question may be resolved by considering the following typical situations:

1. If the PC reads "John Jones, presumptively subject to the community interest of his wife, if married on January 16, 1936, date of acquiring title," this means that the deed to the vestee reads merely "John Jones" and does not disclose whether or not John is married.

   The parties should be questioned as to their marriage date, and if it is found that they were husband and wife on "January 16, 1936," this fact should be incorporated in the party clause of the deed. It is not sufficient merely to have his present wife sign the deed. The following is a good form to use:

   "John Jones and Mary Jones, husband and wife on January 16, 1936, and at all times since."

   If questioning discloses that John was single on the above date, the party clause should appear as follows:

   "John Jones, a single man on January 16, 1936, and Mary Jones, his wife."

If it is found that on said date, John was married to *someone other than Mary*, then the interest of that former spouse must be secured, or a determination made that it has passed properly to John. The existence of a former spouse is the most dangerous possibility of this type of vesting, and is the condition against which every precaution should be taken.

2. If the PC reads "John Jones and Mary Jones, presumptively as community property," this means that the vesting deed ran to John Jones and Mary Jones, but failed to identify them as husband and wife. (They might be brother and sister, for instance, and each of their interests would be presumptively subject to the community interest of his or her respective spouse.)

   In this case, if it is found that they are married, it is sufficient to take a deed reciting that they are husband and wife.

   If it is found that they are not married to each other, the Acquisition Agent makes an investigation to determine the marital status of each person, reporting the facts found in his *Diary of Right of Way Activities* (Form RES-301), and refers the matter to the Region RESM (or his designee) for instructions.

3. Some title companies also show a title as being in "John Jones, husband of Mary Jones, presumptively as community property," this means that the deed ran to John Jones, without disclosure of his marital status, but the title company knows from its own records that he was the husband of Mary on the date of acquiring title.

   In this case, it is sufficient to accept a deed signed by John and Mary, identifying them as husband and wife in the party clause.

4. If the PC shows the title to be in Mary Jones, a widow, or Mary Jones, a spinster, and you find in contacting her that she has remarried, or married, the following is the proper form for the party clause:

   "Mary Schwartz, who acquired title as Mary Jones, a widow, (or a spinster), and Albert Schwartz, her husband." (Technically the husband need not join in the deed, since the property is the separate estate of Mary. But see B. above for the possible effect of a Community Property Agreement).

5. Combinations and/or variations of the above examples should be referred to the Region RESM for instructions. Also, see Section 8-5.5 with respect to probate in the event of the death of a vestee.

9-6.4 Corporate Names

9-6.4.1 Private Corporations

The name of the corporation, using the exact words as filed in the Office of the Secretary of State in Olympia, is shown in instruments to the state. Any variation is authorized by the Region RESM and explained in the *Encumbrance Report* on the *Right of Way Acquisition Transmittal*. (But see Section 9-6.2 B. if PC vesting varies from name as recorded in Office of Secretary of State.)

9-6.4.2 Governmental Agencies

Acquisition from political subdivisions of the state of Washington (cities, counties, etc.) should be headed as shown in the title report, e.g., "_____ County, a political subdivision of the state of Washington," "City of _____, a municipal corporation of the state of Washington."

9-6.5 Estate or Interest

When legally empowered to execute an instrument as a fiduciary, the party clause includes the name and the capacity of the party who executes the instrument for the vested owner. A fiduciary's name appears exactly as shown in the PC and/or the court appointment. See Sections 9-6.6 to 9-6.8, below. Although an Attorney-in-Fact has fiduciary responsibilities, he has no estate or interest in the property to be conveyed; hence, the name of the principal only appears in the party clause. (See Section 9-14 as to execution by an Attorney-in-Fact.)

9-6.6 Trustee

A. If a Trustee is executing the instrument only as a fiduciary, the following examples are adapted:

1. ". . . Richard Roe as Trustee for John Doe . . ."
2. ". . . Richard Roe as Trustee under the will of John Doe, deceased . . ."
3. ". . . The Grand National Bank as Trustee for John Doe . . ."

B. If a Trustee is executing the instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. ". . . Richard Roe, a single man, as his separate estate (etc., see Section 9-6.3) and as Trustee for John Doe, as his separate estate . . ."

9-6.7 Executor/Administrator

A. If an Executor/Administrator is executing an instrument only as a fiduciary, the following example is adapted:

1. ". . . Richard Roe as Executor (Administrator) of the Estate of John Doe, deceased . . ."

B. If an Executor/Administrator is to execute an instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. ". . . Jane Doe, individually and as Executrix (Administrator) of the Estate of John Doe, deceased . . ."

C. Trustees, Executors, and Administrators are also collectively referred to as Special Representative as shown in the following example:

1. ". . . Richard Roe as Special Representative for the Estate of John Doe, deceased . . ."

9-6.8 Guardian

A. If a Guardian is executing an instrument only as a fiduciary, the following example is adapted:

1. ". . . Jane Doe as Guardian of the Estate of John Doe, Junior, a minor (an incompetent, an insane person) . . ."

B. If a Guardian is executing an instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. ". . . Jane Doe, individually and as Guardian of the Estate of John Doe, Junior, a minor (an incompetent, an insane person) . . ."

9-6.9 Tenants in Common and Joint Tenants

If the PC shows title vested in the parties as Tenants in Common (or as Joint Tenants), the following example is adapted:

1. ". . . John Doe and Ruth Roe, as Tenants in Common . . ."
2. ". . . John Doe and Jane Doe, husband and wife, as Joint Tenants . . ."

9-6.10 Fractional Interest

A. If the PC shows title held by two or more persons in fractional interests, the sum of such interests is verified by the Acquisition Agent to equal 100 percent and the parties are joined on the instrument, adapting the following example:

1. ". . . John Doe, Jane Doe, Ruth Roe and Jim Olsen, as their interests may appear . . ."

B. If the space on the form instrument is insufficient, the party clause may be altered by:

1. Removing (striking out with a single straight line) the word "grantor" and,
2. Inserting instead, the following:

   ". . . The undersigned grantors, as their interests may appear . . ."

9-6.11 Partnerships

A. If the PC shows title held in name of a firm which proves to be a partnership:

1. If a Limited Partnership and evidence is available that only some of partners are authorized to convey the real property of the firm, the following is adapted:
   a. ". . . (FIRM NAME), a Limited Partnership . . ." (See Section 9-14.3.5 for execution.)
2. If a Limited or General Partnership and no evidence is available as to authority to convey, the following is adapted:
   a. ". . . John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife, (continuing through all the partners and their spouses), being all the partners of (FIRM NAME), a (Limited) Partnership . . ."

B. If the PC shows title held by one or more persons who prove to be all or part of a partnership which in fact is doing business under a firm name, the following is adapted:

1. ". . . John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife; (continuing through all the partners and their spouses), partners doing business as (FIRM NAME) . . ."

9-6.12 Limited Liability Companies

The name of the Limited Liability Company as filed in the Office of the Secretary of State in Olympia and as shown in the written agreement. The agreement details the organization of the LLC including provisions for management. For more detailed information see RCW 25.15.

9-7 Consideration

9-7.1 Lump Sum

A. If no money is to be paid, the language used is:

1. ". . . Mutual Benefits . . ." (The words "the sum of" and "Dollars" on the preprinted forms are stricken.)

B. If money is to be paid for the purchase of property or a real property interest in the lands to be acquired, the following language is used in lieu of reciting the full amount of the just compensation for the parcel:

1. ". . . Ten and No/100 ($10.00) Dollars and other valuable considerations . . ."

   Note: The word "Dollars" is printed on many forms at the end of a line. Hence, the parenthetical numerical amount is written in before the word "Dollars"; it normally should follow the word "Dollars" as in C. below. "Other valuable considerations" includes construction items and the like. If actual money paid is less than $10, the dollar figure in the above example should be reduced to a number as small or smaller than the dollars paid.

C. If money is to be paid in relation to an agreement or for a release of an interest, e.g., damages, judgment, or lease, in a secondary *Real Property Voucher*, the specific amount of the consideration is shown in words and numerals:

1. ". . . ONE THOUSAND FIVE HUNDRED AND NO/100 Dollars ($1,500.00) . . ."

9-7.2 Rate

If money is to be paid periodically as in a lease, the amounts to be paid and the frequency of payments are included, adapting suitable language based on the following examples:

A. ". . . Ten and No/100 Dollars ($10.00) per month . . ."

B. ". . . Ten and No/100 Dollars ($10.00) per month together with Two Cents ($0.02) per cubic yard of materials removed by the state of Washington and/or its assigns during each such monthly period . . ."

C. ". . . Mutual Benefits and Six Cents ($0.06) per cubic yard of materials removed by the state of Washington and/or its assigns, payable annually (semi-annually) . . ."

D. ". . . On a royalty basis at the rate of $_____ per cubic yard of material removed by the state as measured by a cross section survey of the excavated area at the completion of each contract, said royalties to be paid promptly at the completion of each such contract . ."

9-8 Conveyance Clause

9-8.1 General

A. The conveyance clause states the exact terms and conditions of conveyance. The complexity of the language varies with the function of the conveyance.

B. A deed normally contains a simple statement to "convey and warrant," ("Warranty Deed") or "convey and quit claim" (Quit Claim Deed).

C. In an "Access Rights Only" deed, the complete conveyance clause also becomes the access clause.

D. Easements, permits, leases, options, etc., require additional conveyance language. See Chapter 13 for examples.

E. The conveying language is followed by the name of the grantee ("the state of Washington") and nature of the interest conveyed, e.g., "the following described real property" (in a deed); "the temporary right to use and occupy the following described real property" (in a lease or permit).

9-8.2 Easement

A. An easement conveys a permanent interest in specific property rights. The interest acquired can be extinguished by merger, abandonment, or relinquishment.

B Form RES 324 'EASEMENT', contains the basic easement language (convey and grant) into which is inserted the language which describes only the interest which the state acquires, for example: '... construction and maintenance of a Channel Change Facility of the Cedar River...'.

9-8.3 Temporary Easement, Right of Entry, Permit

These documents are used to obtain the temporary use of a property for a specific purpose. The document needs to clearly state the purpose and the termination date.

9-8.3.1 Temporary Easement, Temporary Construction Easement

A. Temporary easements are used when the state requires a property right of a temporary nature that involves construction activities on privately owned property. In cases where the work to be performed is not beneficial to the property owner, just compensation may be paid. A temporary easement is not revocable by the property owner and may recorded to place constructive notice of the rights the state has acquired.

B. Form RES 325 'TEMPORARY EASEMENT' contains basic language to into which is inserted the specific language describing the reason for the temporary easement and the expiration date of the temporary easement.

9-8.3.2 Right of Entry

A. A right of entry is a personal not a property right. It gives WSDOT permission to perform a service at the will of the property owner. These documents are used for some survey work, soils analysis, wetland delineation, septic or well testing, or such work usually associated with the initial scoping and design of the project. These documents can be revoked by the property owner and are only valid with the current property owner. Should the property be transferred or sold, the right of entry will need to be renegotiated. Unless payment is required, rights of entry are not transmitted to Headquarters.

B. Form RES _____ 'RIGHT OF ENTRY' contains the basic language to into which is inserted the specific language describing the reason for the right of entry and the expiration date of the right.

9-8.3.3 Permit, Construction Permit

A. A permit is a personal not a property right. It gives WSDOT permission to perform a service at the will of the property owner. Permits are used for mutual benefit situations such as reconnecting a driveway. These documents can be revoked by the property owner at anytime and are only valid with the current property owner. Permits are not transmitted to Headquarters.

B. Form RES 326 'PERMIT' contains the basic language to into which is inserted the specific language describing the reason for the permit and the expiration date of the permit.

9-8.4 Lease

A. A Lease obtains specific rights of tenancy. The termination of use of the property is specified and the rights and privileges of the lessee are specified.

B. The *Lease for* _____ (Form RES-329) contains the basic lease language ("grants"), into which is inserted the language which establishes rights and privileges of the lessee and the termination.

1. See Section 9-7 for rental rate clauses (consideration).
2. The lessee's rights and privileges are described, adapting language such as the following:
   a. ". . . the right, permit, license, and lease to use and occupy (for the purpose of) STOCKPILING OF ROAD MATERIAL including depositing and storing crushed stone and other highway materials as the exclusive property of the state . . ."
   b. ". . . the right, permit, license, and lease to use and occupy (for the purpose of) the REMOVAL OF EARTH MATERIALS, including excavation and removal of rock, gravel, sand, or earth, from any portion of said land; storing materials and operating all necessary machinery and equipment thereon . . ."
3. See Section 9-8.3B2 for termination language.

9-8.5 Option (To Be Published)

9-8.6 Consent to Change of Grade

The Consent to Change of Grade (Form RES-323) is used only in those cases where the change of grade is to be accomplished entirely within the existing right of way.

9-9 Property Description

Basic Descriptions

A legal description, to be adequate, must be capable of being located on the ground with reasonable certainty by a competent surveyor, either with or without the aid of extrinsic evidence. (21 Wn. 371; 3 Wn. 2nd, 567; 12 Wn. 2nd, 589; 34 Wn. 2nd, 563.)

It is impossible in a short outline to cover all of the fine shadings of meaning which have been placed by our courts on language used in the description of land. When a comparison is being made of the language in a given description to the examples cited herein, care should be taken to see that wording is exactly as it was in the case cited. The Assistant Director Title and Condemnation Program will help with the interpretation of descriptions.

9-9.1 Illustrations of Adequate Description

A. The following are examples of adequate descriptions.
   1. Any section or subdivision of the U.S. Rectangular system of survey.
   2. Descriptions by reference to recorded plats, or to private surveys attached to and incorporated by reference.
   3. Metes and bounds tied to any point on either of the above, directly or by reference to an earlier deed, which in turn is so tied.

B. A description fails if for any reason it is vague, indefinite, or so ambiguous as to be impossible to interpret. Sample inadequacies:
   1. 160 acres, more or less, in Section 2 -13 N. -2 E. (3 Wn. 2nd 565).
   2. A house at 2626 West Fairview (28 Wn. 2nd 110).
   3. "Approximately 207 feet" (24 Wn. 2nd 586).
   4. Description by reference to an unrecorded plat (21 Wn. 2nd 593).
   5. A description failing to name the county, state, or meridian and range (16 Wn. 34).

C. The following have been held to be sufficient; however, their usage is not recommended:

1. "All the real estate in the state of Washington of record in the name of the grantor" (96 Wn. 592).

2. "All property owned" by a certain company in a specified county. Held good as to all lands held under recorded title and would not pass lands acquired under an unrecorded deed (28 Wn. 2nd 953).

3. "Tax lot 3, Section 32 -Twp. 12 N., R. 42, as at present designated on the tax rolls of the County Assessor of said County." Sufficient provided the Assessor's tax rolls contain an adequate description of the tax lot (38 Wn. 2nd 886). In spite of this case, the use of tax lot numbers as legal descriptions should be avoided at all costs. It is common practice in all Assessors' offices to abbreviate and paraphrase the original description in the interest of brevity. In many cases, the abbreviated description covers the same parcel of land as the original, but in many other cases, important controlling or qualifying language is omitted or typographical errors are introduced, any of which could destroy the accuracy of the description.

D. A court may apply its own wisdom in some cases, not withstanding B above. If a deed appears adequate on its face, but a dispute arises over the location of the lines on the ground, or if the intent of the parties is obvious when certain facts are stricken | or altered, the court will allow oral testimony to determine the true meaning of the description. For example:

1. As where no block number is recited, but the grantor owns land only in one block in the recited addition, the court has read into the deed the missing block number (24 Wn. 225, 53 Wn. 285). The court has also substituted the word "southwest" for southeast in order to make the description close (8 Wn. 642).

2. In a description failing to name the meridian ". . . Range 42 . . .," the court supplied the missing term "*East* Willamette Meridian" as this was the only possible intention since Range 42 *West* would fall well out in the Pacific Ocean (38 Wn. 886).

9-9.2 Controlling Elements of a Description

A. Natural and artificial permanent objects referred to in the description control over courses and distances. As where a metes and bounds description overruns a highway, and yet the highway is recited as being a boundary of the property, the highway controls (108 Wn. 413, also see 163 Wn. 10). The boundaries of a city lot are controlled by lines as actually run on the ground, as shown by surveyor's stakes, rather than the lot lines as shown by the plat (30 Wn. 687, 94 Wn. 395).

B. Where there is a variance between field notes and monuments as set out by the U.S. Government surveyors, the monuments prevail (41 Wn. 583, 70 Wn. 435, 172 Wn. 405).

C. Metes and bounds control over the other elements. As in a conveyance by metes and bounds which also recites that the conveyance includes so many acres, the courses, and distances control even though they include a larger area than recited (38 Wn. 151).

D. Reference to an adjoiner will control over recited bearings and distances (115 Wn. 454, 124 Wn. 179).

E. Maps or field notes, where incorporated in a description by exhibit or reference, will control in case of conflict with courses and distances recited in the description (5 Wn. 425, 57 Wn. 392).

F. Where there is a conflict in boundaries in two deeds from the same grantor, the title of the grantee in the deed first executed is superior (57 Wn. 150, 196 Wn. 54).

G. In case of a conflict of terms in a description, it will be construed most strongly against the grantor (57 Wn. 392).

H. One may reject a false and impossible part of a description if by so doing a perfect description remains (57 Wn. 150).

I. The existence of an adequate legal description is only the preliminary step to establishing the property lines on the ground. The linking factor between the description and the boundary on the land is the monument. Monuments may be any visible, tangible, physical object in existence which marks a point or a line on the earth's surface. The following are typical adequate monuments:

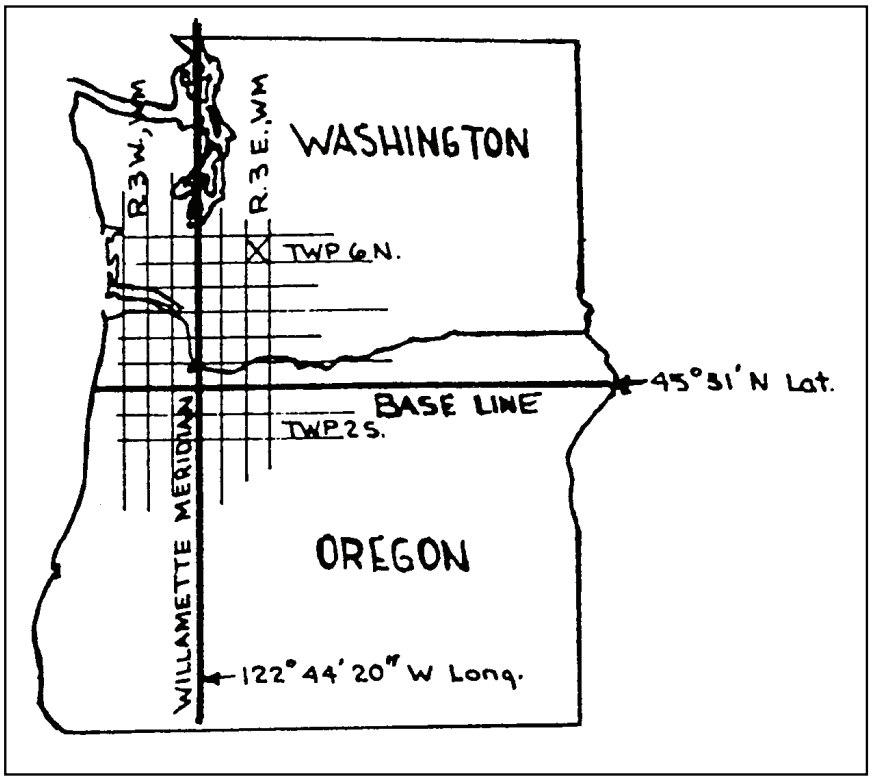
1. Clearly marked concrete posts (as are used by the federal surveyors to mark section and 1/4 corners).
2. The line of ordinary high tide or high water.
3. The thread of a stream.
4. A tree, or a row of trees.
5. An iron pipe.
6. A bench mark (brass disc emplaced by USCGS).
7. A fence.
8. A building.
9. A hedge.
10. A sidewalk.
11. A cliff.

A full discussion of the importance of monuments and the requirements for establishing their genuineness is beyond the scope of this text, but an excellent analysis of the problems involved appears in *Surveys, Subdivision and Platting, and Boundaries, Bureau of Governmental Research and Services, Report No. 137*. Published by University of Washington Press. 1958, Page 67, et seq.

9-9.3 Rectangular Survey Descriptions

A. The rectangular survey system was adopted in 1785. The system has been used in most of the states. For the purposes of the rectangular survey, the states of Washington and Oregon form a region. This region is quartered by a north-south line (the Willamette Meridian) and an east-west line (the Base Line) which intersect in Portland, Oregon (see Figure 9-9.3A). The tiers lying north or south of the Base Line are numbered consecutively and are called Townships. The columns lying east or west of the Willamette Meridian are numbered consecutively and are called Ranges. Each Township and Range also bears a compass direction which indicates its direction from the Base Line and from the Willamette Meridian respectively. Thus, the area marked with an "X" on Figure 9-9.3A is described as "Township 6 North, Range 3 East, Willamette Meridian." The Township (T or Twp) always appears first and the Range (R or Rge) second, followed by the Meridian (Willamette Meridian = WM). In the sample given, the information would usually appear in abbreviated form: "T6N, R3E, WM."

The Townships and Ranges are bounded by lines which are drawn parallel with the Base Line and the Willamette Meridian. In order to make up for the curvature of the earth, correction lines are inserted (after some variation in the early days) every 24 miles.

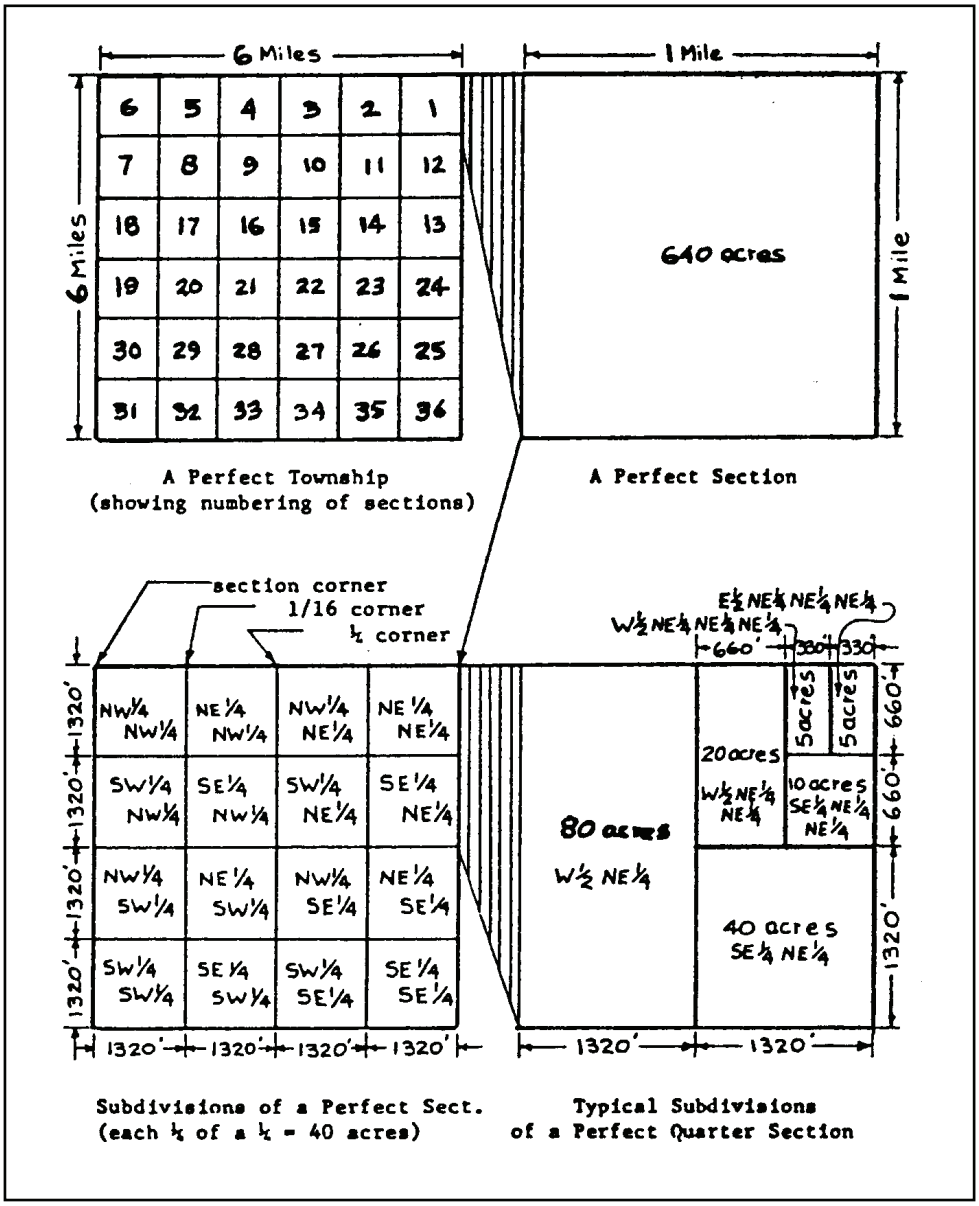


Townships and Ranges
Figure 9-9.3A

B. Each Township consists of 36 sections (see Figure 9-9.3B), and each section ideally contains 640 acres. In practice, sections rarely are perfect.

The statute requires only the setting of the section corners, but in most instances in this state, the federal surveyors also set the 1/4 corners. The latter are required to be midway between the section corners on the section lines. The center lines are established by drawing straight lines connecting the 1/4 corners.

The method of further subdivision by private survey is to establish mid-points between the section corner and 1/4 corners (these are 1/16 corners). Straight lines connect these mid-points in each 1/4 with the corresponding mid-points on the opposite side.

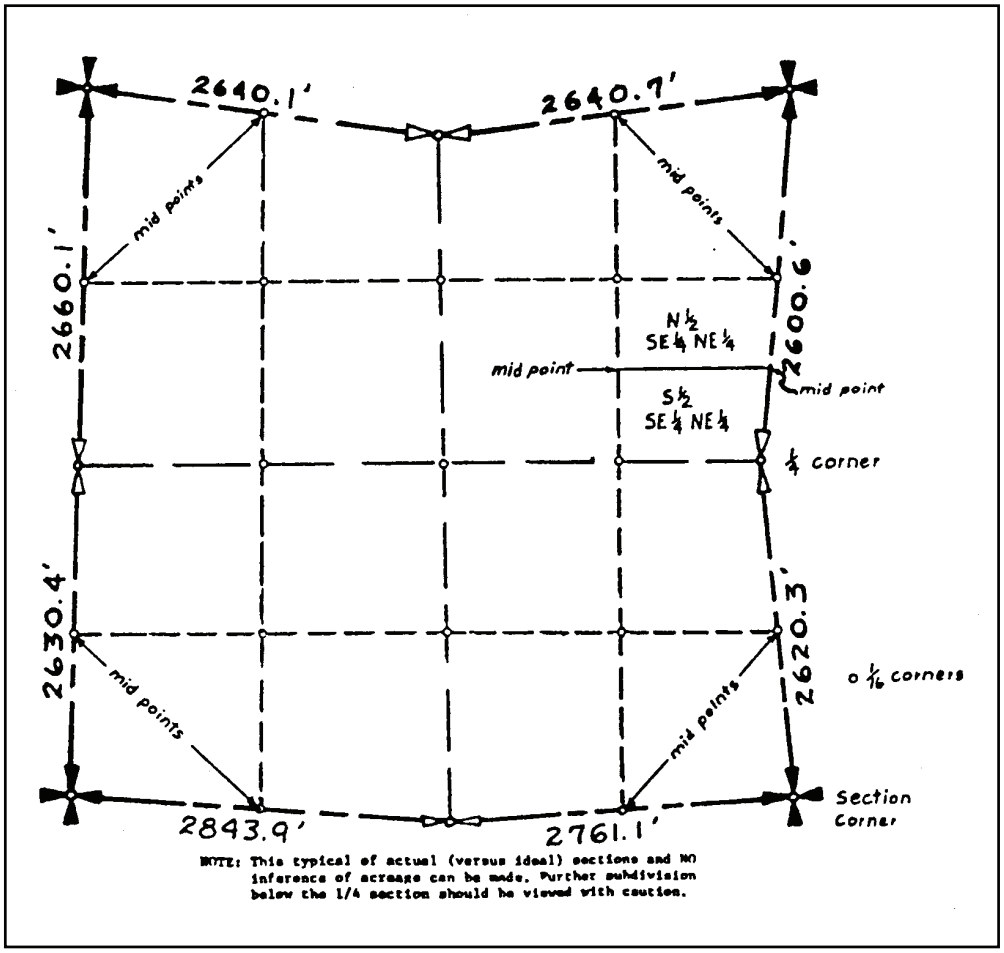


Land Areas and Dimensions
Figure 9-9.3B

C. Once the corners have been placed by the Federal Surveyors and conveyances made, they stand as the true corners. This holds true no matter how small or large an error might have been made in the setting of the corners. Even with errors as great as those shown in Figure 9-9.3C, the monuments stand as placed and determine the size of the section and its subdivisions. However, in the absence of the original monuments, or witness marks, the field notes will control (41 Wn. 583). The more rugged the country, the less likely the existence of actual sections that are "perfect" or "ideal."

The conveyance of large tracts of land within such a section is normally accomplished by the subdivision style of description. It is necessary to recite the section, township, range, county, and state, as well as the subdivision of the section, to complete the identification of the property. Further subdivision within such a section is accomplished by measurement (as distinguished from area, see Section 9-9.6C). For example, in Figure 9-9.3C, the N 1/2 and S 1/2 of SE 1/4 NE 1/4 are determined by connecting the mid-points on the East and West

Lines of the SE 1/4 NE 1/4. The resultant areas and direction of the dividing line have no bearing on the problem unless the description specifically says the N 1/2 *in area* of SE 1/4 NE 1/4. In the latter case, the same rules apply as in subdividing platted land. (See Section 9-9.6C



The Size of a Sections Determined by Its Monuments (Example)
Figure 9-9.3C

9-9.3.1 (Reserved)

9-9.3.2 Hazards in Interpretation

9-9.3.2.1 Dimensional Units

Unless a perfect subdivision is involved, the E 660' of the NE 1/4 NE 1/4 is not the same as the/ E 1/2 NE 1/4 NE 1/4 Similarly, the West 20 acres of the NE 1/4 of the NE 1/4 is not identical with the W 1/2 of the NE 1/4 of the NE 1/4. In the first case the east-west dimension may well be other than 1320' (1/2 = 660'), and in the second the "40" may actually contain more or less than 40 acres.

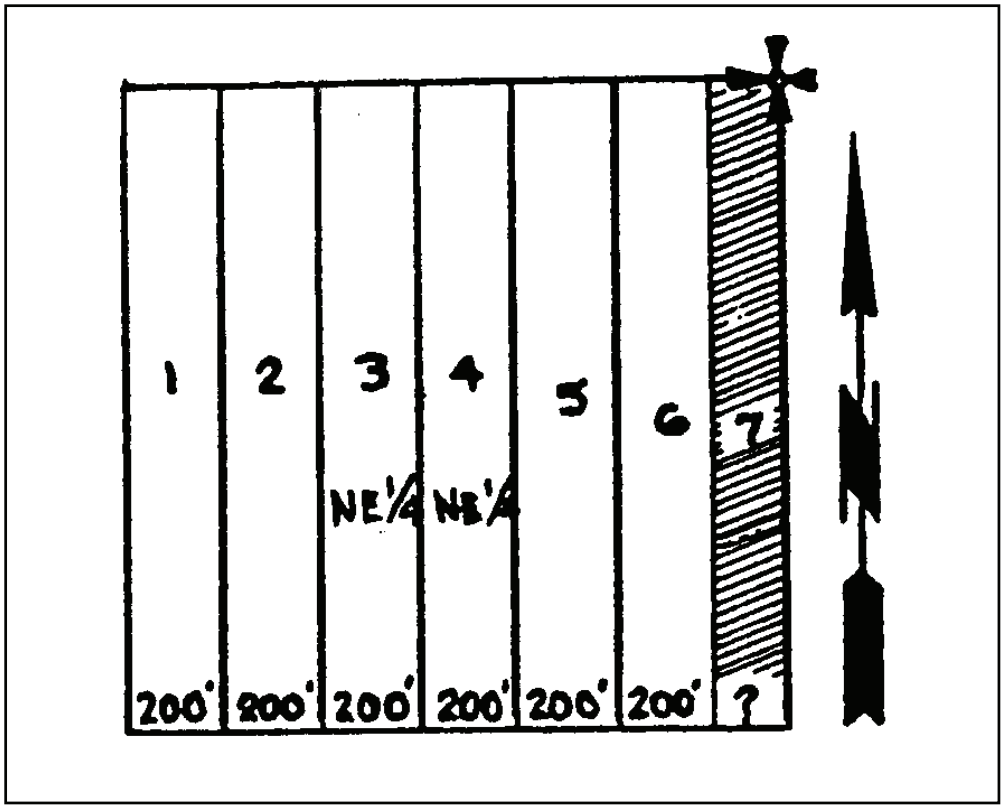
9-9.3.2.2 Different Points of Reference

One of the most common faults in the description of parts of a Government subdivision arises in conveyances using two different points of reference. In Figure 9-9.3.2.2, conveyances of Tracts 1 through 6 have been made by reference to the West line, as follows:

"The West 200' of the NE 1/4 of the NE 1/4," describes Tract 1. Similarly, "the East 200' of the West 400' of the NE 1/4 of the NE 1/4," describes Tract 2, etc.

An error will be introduced if Tract 7 is described as "The East 120' of the NE 1/4 of the NE 1/4" on the assumption that the subdivision is regular in size. The only safe technique for describing Tract 7 is to refer to the entire subdivision and except therefrom all lands which have been conveyed earlier, as follows:

"The NE 1/4 of the NE 1/4, EXCEPT the West 1200 feet."



Description of Tract 7 (Example)
Figure 9-9.3.2.2

9-9.3.2.3 Descriptions Involving Exceptions

Language and punctuation are extremely important. Minor changes in language and punctuation can have major effects on the description. The shaded areas in Figure 9-9.3.2.3 represent the tracts described by the following descriptions. For each pair of descriptions, note the effects of minor changes of language and punctuation.

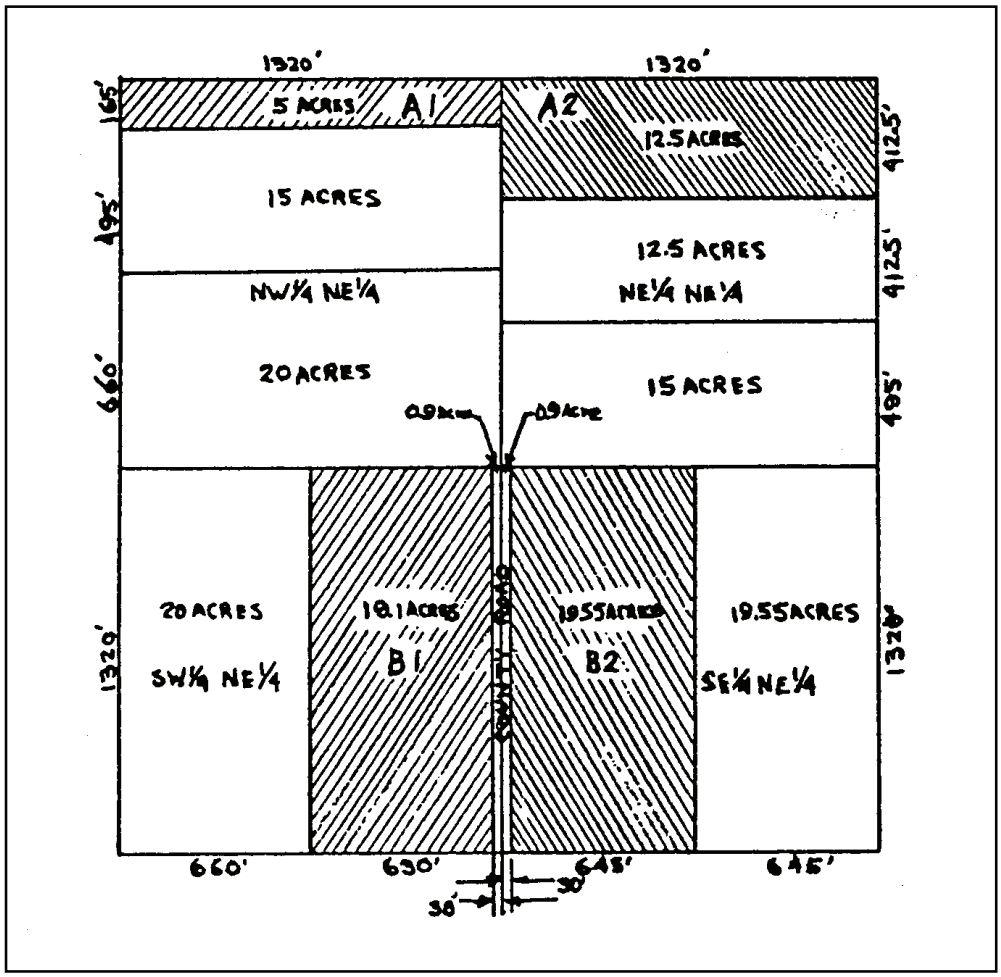
A. 1.The N 1/2 NW 1/4 NE 1/4, except the S 15 acres.

2. The N 1/2 of the following described tract: The NE 1/4 NE 1/4, except the S 15 acres.

B. 1.The E 1/2 SW 1/4 NE 1/4, except the East 30' thereof for county road.

2. The W 1/2 of the following described tract: The SE 1/4 NE 1/4, except the West 30' thereof for county road.

In each of the above cases, the language and punctuation determine how the exception is to be taken and, therefore, the size of the tract described.



Language and Punctuation and Their Effect Upon Descriptions (Example)
Figure 9-9.3.2.3

9-9.3.2.4 Ambiguity

Care should be taken to avoid combining several different subdivisions into one description in such a way that interpretation is difficult. In the following example, to what does the "W 1/2" refer?

"The W 1/2 of the NE 1/4 and the SE 1/4 of Section . . . "

If the intention is for the "W 1/2 to apply only to the NE 1/4 ," the following would be better:

"The SE 1/4 and the W 1/2 of the NE 1/2 of Section . . ."

If the intention is for the W 1/2 to apply to both quarter sections, the following would be better:

"The W 1/2 of the E 1/2 of Section . . ."

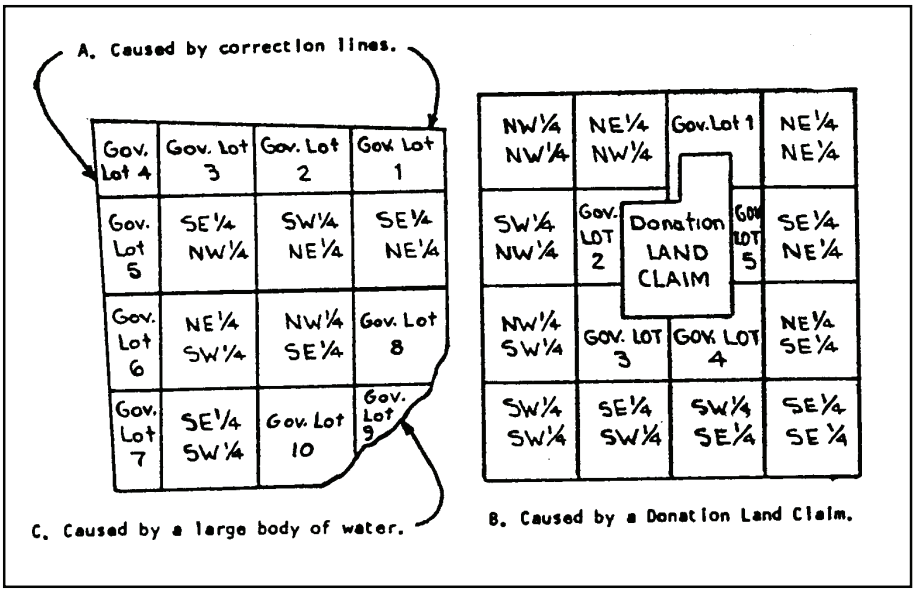
9-9.3.3 Government Lots

Under the U.S. rectangular survey system abnormally-sized subdivisions of a section are called Government Lots and are numbered. Examples of the causes of Government Lots are illustrated in Figure 9-9.3.3.

A. When the excesses or shortages in the area of subdivisions are caused by correction lines, the corrections are made by designating the northerly and westerly subdivisions of the section as Government Lots (see A in Figure 9-9.3.3).

B. Government Lots are created in those subdivisions which border a grant which preceded the U.S. rectangular survey. For example: Donation Land Grants are excluded from subdivision (see B in Figure 9-9.3.3). Similarly, when a mining claim is patented, the U.S. Bureau of Land Management draws an amended plat of the section and assigns Government Lot numbers to the remaining portions of subdivisions which border the patented mining claim.

C. Government Lots are also created where the normal layout of a section is precluded by the existence of a body of water (see C in Figure 9-9.3.3); e.g., along the shores of Puget Sound, large lakes, or rivers.



Government Lots and Normal Subdivisions (Example)
Figure 9-9.3.3

9-9.3.4 Tide and Shorelands

One of the areas of greatest confusion exists in the definition of "navigable" bodies of water. The Washington State Supreme Court has held that to be navigable within the meaning of Article VII of the state Constitution, a body of water must be capable of being used to a reasonable extent in the carrying of commerce in the usual manner by water, and be so situated and have such length and capacity as will enable it to accommodate the public generally as a means of transportation. (167 Wn. 385, 195 Wn. 537, 16 Wn. 2nd 107).

On attaining statehood (November 11, 1889), the state of Washington asserted its ownership of the beds and shores of all navigable bodies of water in the state, excepting only those previously patented by the Federal Government. The question of the navigability of any particular stream or body of water can be answered only by a decision of the State Supreme Court — in the absence of such a decision, DNR assumes the stream or body of water to be navigable if it has been meandered.

All "navigable" rivers are meandered (how the surveyor was to determine this point is uncertain). Also meandered is any river whose right angle width is three chains (198 Engineer's) or more, and all lakes of 25 acres or more (see *Manual of Surveying Instructions*, U.S. Department of Interior, Bureau of Land Management, 1947, U.S. Government Printing Office, Superintendent of Documents).

Therefore, the boundary between the uplands and the abutting tide or shorelands varies according to the history of the upland title as follows:

A. If the Government Lot was patented (a patent is the original conveyance by which the real property is transferred from the United States to private ownership) prior to statehood, its outer boundary is either the "ordinary high water mark" (see Section 3-2) or the meander line, whichever is farther out (see Government Lot 2 in Figure 9-9.3.4).

B. If the Government Lot was patented after statehood, its outer boundary is the "ordinary high water mark" since everything beyond that line now belonged to the state (see Government Lot 1 in Figure 9-9.3.4).

The upland owner has no rights of any kind in the abutting tide or shorelands unless he has acquired the said lands. (***Note:*** The upland owner of Government Lot 2, Figure 9-9.3.4, "has acquired" some (at least) of such tide lands (shorelands) if he acquired under A above and the meander line is "farther out;" however, they are legally uplands and not tide or shorelands within the meaning of this section.) Until 1971, the upland owner had a limited preferential right to acquire the abutting tide or shorelands from the state. In that year, the legislature prohibited all further sales of tide or shorelands except to public agencies (RCW 79.01.470). It is still possible to arrange for exchanges of tide or shorelands, or to lease such lands from the state for up to 55 years.

On the other hand, the upland owner who has acquired the abutting tide or shorelands is entitled to all of the rights peculiar to a riparian or littoral owner, and, in particular, has a perpetual right of access to the navigable waters adjoining. Thus, when Lake Washington was lowered by the opening of the Lake Washington Ship Canal, the owners of the adjacent uplands and shorelands automatically acquired title to the relicted lands and the outer limit of their title extended to the new Inner Harbor Line (76 Wn. 158).

Up to March 8, 1911, conveyances of tidelands by the state were limited to the lands between the outer limits of the Government Lot and the mean low tide line. After that date, the tidelands were conveyed out to the extreme low tide line.

Care should be taken in the examination of a state deed for tidelands to ascertain that the deed is not merely for the limited purpose of growing oysters. Such a deed does not carry fee title, but limits the use of the lands for the purpose of growing oysters. Oyster land deeds can usually be quickly recognized since the majority of these conveyances contain metes and bounds descriptions whereas tide and shorelands are normally sold by the front foot abutting upon a described length of the meander line. There were several acts which authorized oyster land conveyances, and each contains a reversionary clause which provides that the lands will be forfeited back to the state when they are no longer used for growing oysters or if they are used for any other purpose:

Chapter 24, Laws of 1895:

> *The Bush Act*, enacted March 2, 1895, repealed 1935, provided oyster lands revert to the state when they are used for any purpose other than the cultivation of oysters.

Chapter 25, Laws of 1895:

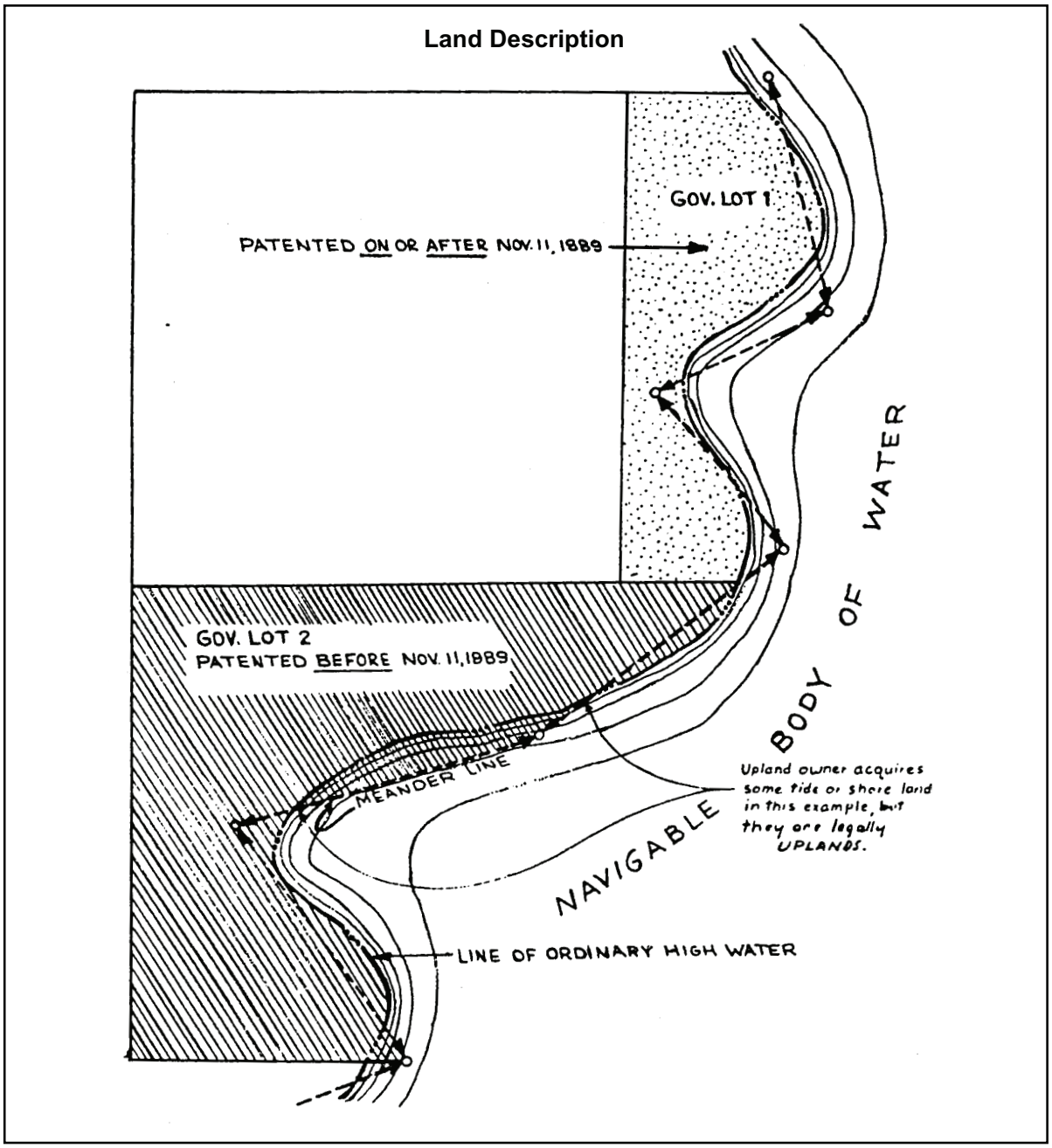
> *The Callow Act*, enacted March 4, 1895, repealed 1935, provided that oyster lands revert to the state when they cease to be used for the cultivation of oysters.

Chapter 195, Laws of 1919:

> This act affects only a few isolated tracts.

Chapter 255, Laws of 1927:

> The reversionary rights of the state can be extinguished by purchase, and by the acquisition of such rights, the holder of any oyster land deed can acquire full fee title.



Limits of Upland Ownership (Example)
Figure 9-9.3.4

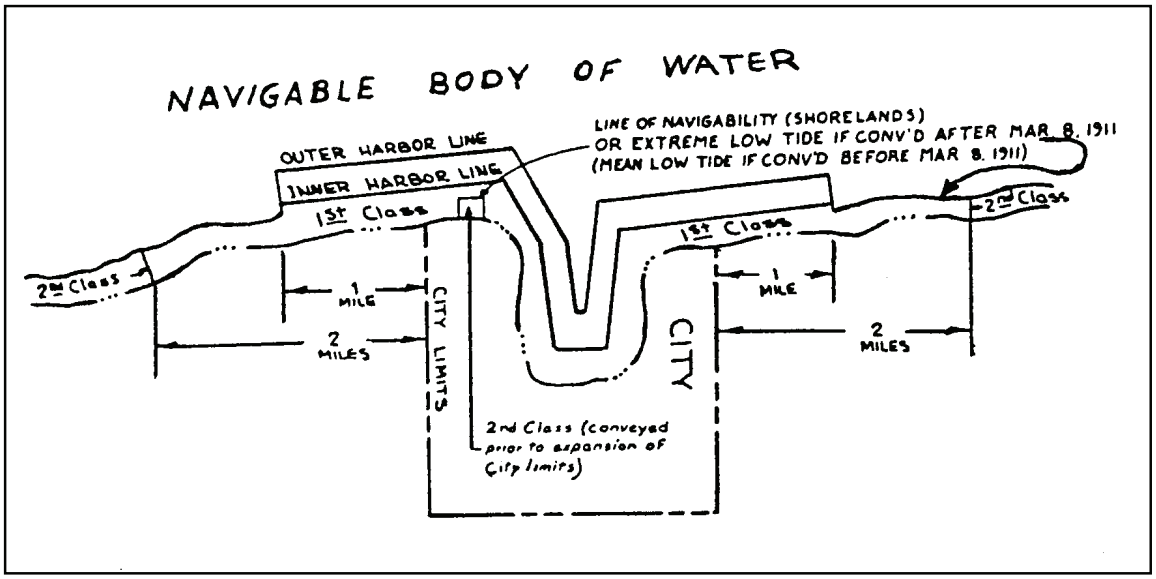
9-9.3.4.1 Classes of Tide and Shorelands

All tide or shorelands in the state are either first- or second-class tide or shorelands.

First-class tide or shorelands are those lying within the corporate limits of a city and within 2 miles on either side thereof. Within the city and for 1 mile on either side thereof, the outer boundary of first-class tidelands is the inner harbor line. Between the first and second mile, the outer limits are the same as for second-class tide or shorelands. (see Figure 9-9.3.4.1). The lands between the inner and outer harbor lines may be leased from the state for the benefit of navigation or commerce. The inner and outer harbor lines define the harbor area, with the outer harbor line marking the outermost limit of improvements such as piers or docks.

Second-class tide or shorelands are all others than those defined as first-class. The outer boundary of second-class tide or shorelands (and of first-class tide or shorelands lying between the first and second mile beyond the city limits) is the extreme low tide line if conveyed by the state on or after March 8, 1911, the mean low tide line if conveyed by the state before March 8, 1911, or the line of navigability (see Figure 9-9.3.4.1). The line of navigability is a line where the water is of sufficient depth for ordinary navigation; at least one court has ruled that is also the test for locating the Inner Harbor Line (76 Wn. 58).

Tide and shorelands are classified as of the date of their sale by the state. Therefore, a parcel which was originally sold as second-class tidelands would remain so classified and would retain its second-class boundaries, even though the parcel was later engulfed by an expanding city.

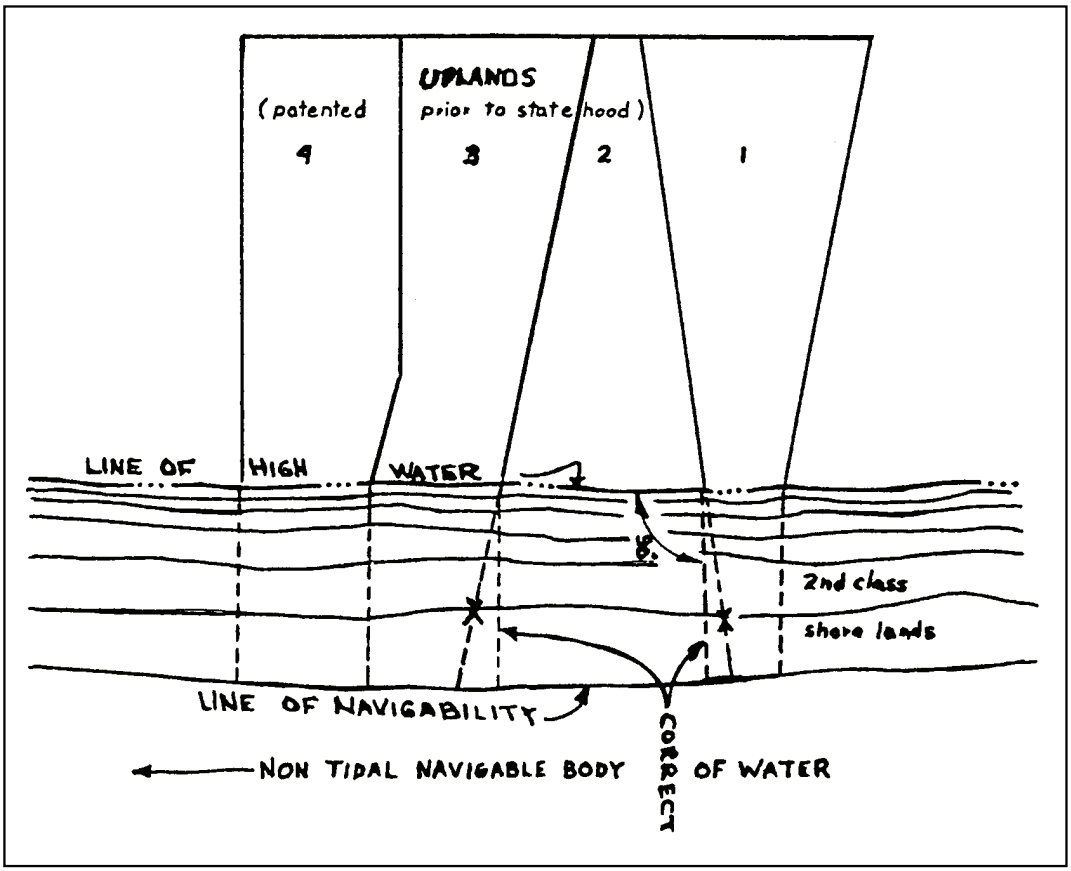


Classes of Tide and Shorelands
Figure 9-9.3.4.1

9-9.3.4.2 Lateral Boundaries of Waterfront Tracts

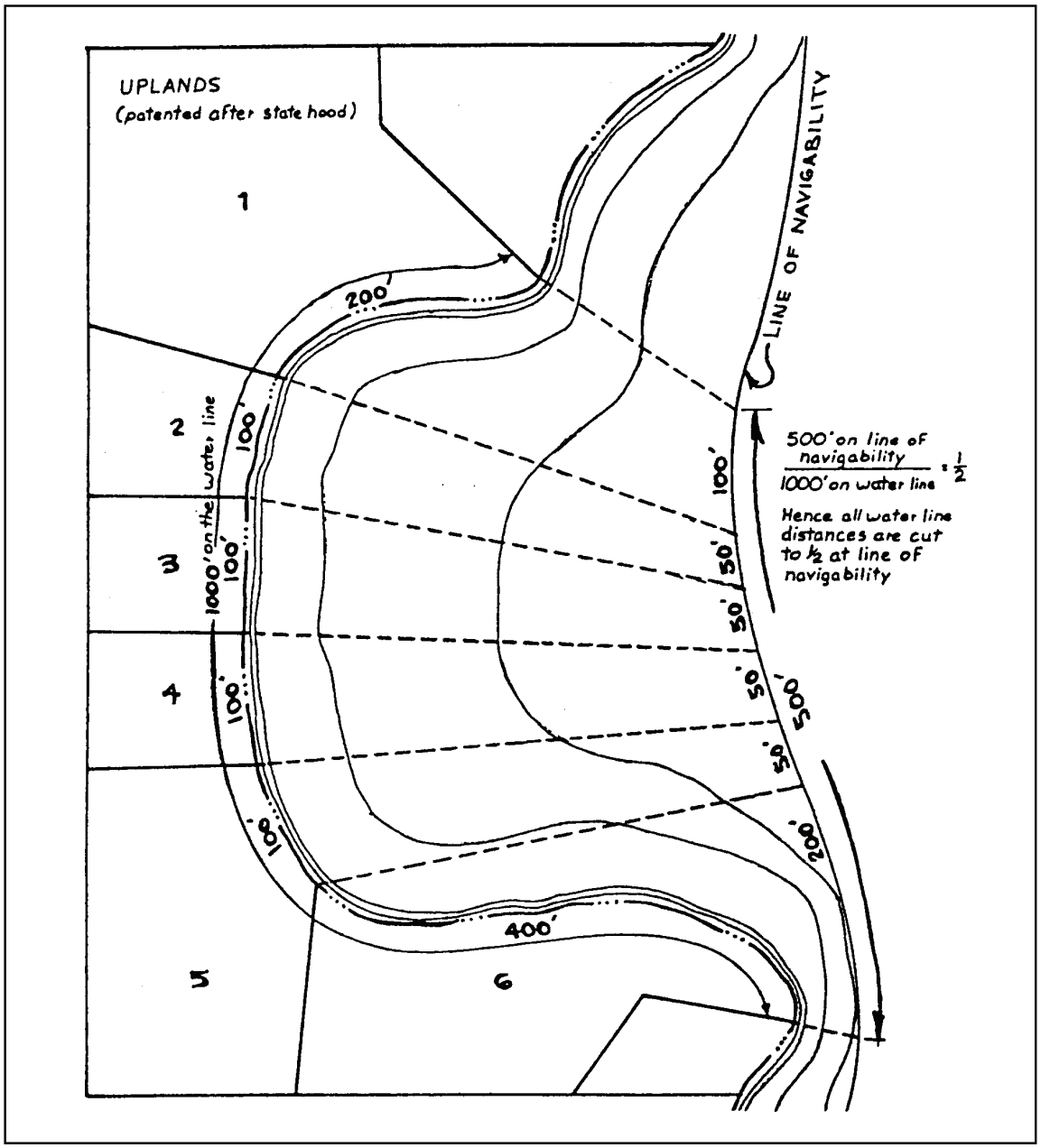
A. When tide and shorelands are sold, they are usually described by the front footage abutting upon a described length of the meander line. No direction is given to the lateral end lines. Hence, a considerable body of law has been built up to solve disputes in this area. See Section 9-9.4 as to lands bounded by unnavigable bodies of water.

B. The lateral lines of a waterfront tract are generally extended out into the water approximately at right angles to the shoreline or line of the ordinary high water mark. Figure 9-9.3.4.2B illustrates the point that an upland owner (e.g., the owner of tract #2) is not entitled to extend his boundary lines out into the water along their upland directions, but must erect lines at right angles to the shore (*Spath vs. Larsen*, 20 Wn. 2d 500, *Kanin vs. Lister*, 27 Wn. 2d 785).



Lateral Boundaries of Waterfront Tracts (Example)
Figure 9-9.3.4.2B

C. The exception to this rule is in the case of properties located on a cove. The State Supreme Court settled a lateral property line dispute in a cove by connecting property lines at the shoreline with proportionate lengths of frontage at the line of navigability. Figure 9-9.3.4.2C illustrates the principle of granting each owner of waterfront on a cove a proportionate share of the water frontage on the line of navigability.



Lateral Boundaries of Waterfront Tracts on a Cove (Example)
Figure 9-9.3.4.2C

9-9.3.4.3 Development of Tide and Shorelands

The freedom to develop tidelands, shorelands, and the abutting "wetland areas" is now regulated by the *Shoreline Management Act of 1971* (RCW 90.58). "Wetland areas" are those lands extending landward for 200 feet from the ordinary high water mark, and all marshes, bogs, swamps, river deltas, and flood plains. With certain minor exceptions (e.g., single family residences not exceeding 35 feet in height, barns on agricultural wetlands, normal protective bulkheads for single family residences, etc.), any development within the "wetland areas" requires securing development permits in accordance with the requirements of RCW 90.58 in addition to the usual building permits.

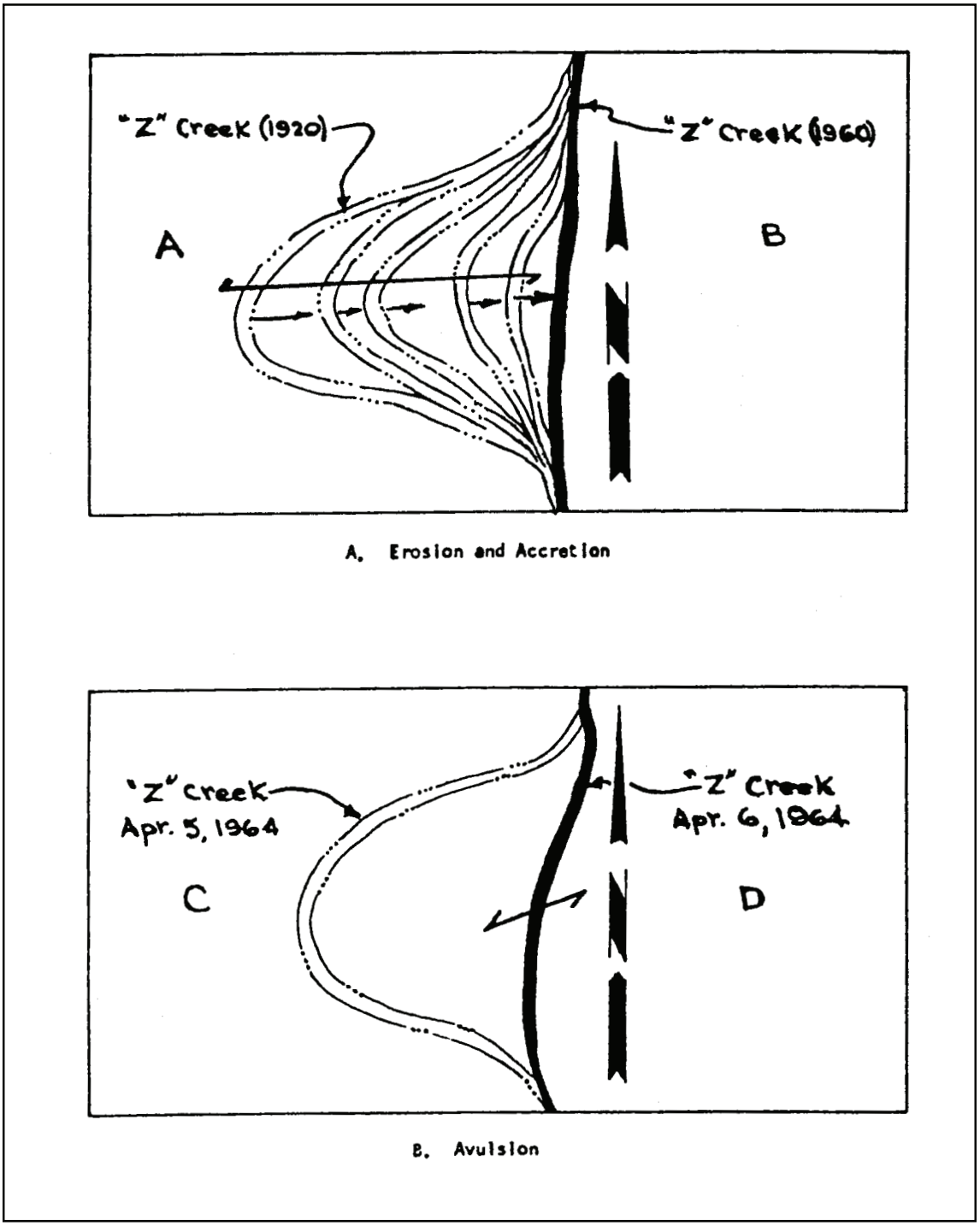
In addition, the Chelan Case (*Wilbour vs. Gallagher*, 77 Wn. 2d 307) also restricts the right to develop tide or shorelands. In this case, the Court ruled that, even though the area in dispute was owned in fee (subject to the rights of the Chelan Electric Co. and its successors to impound the waters of the lake and to raise its level to an elevation of 1,100 feet) by the defendants, the defendants must remove a landfill which they had placed in Lake Chelan on the grounds that the landfill interfered with the rights of the public to use the waters of the lake.

9-9.4 Lands Bounded by Unnavigable Bodies of Water

Generally, a property bordered by an unnavigable river, stream, slough, or body of water will carry title to the "thread of the stream" or the center of the lake. However, if the legal description uses some clearly limiting term (e.g., "to the bank of 'Z' Creek"), the grantee has not acquired any interest in the bed of the stream.

When an unnavigable stream forms the boundary between two properties, and the stream gradually shifts its location (by erosion on one side and accretion on the other), the boundary between the properties shifts with the shifting stream. This has been established by many court decisions on the basis that the owner cannot identify that portion of his land which has been washed away, carried downstream, and deposited on another's land. Thus, in A of Figure 9-9.4, owner A acquires title to the land lying westerly of "Z" Creek as the creek slowly changes course.

On the other hand, when the stream suddenly jumps its bank and takes a new course, as in a spring flood (avulsion), the property lines do not shift. Thus, in B of Figure 9-9.4 the property line between owners C and D does not change because of the flood on April 6, 1964.



Properties Bordered by Unnavigable Streams (Example)
Figure 9-9.4

9-9.5 Metes and Bounds Descriptions

This method of land description involves locating property by: (a) a reference and tie to a legal monument (or point of public record) and (b) an outline of the courses and lengths of each line of the perimeter of the property.

The point of origin in any metes and bounds description is normally called "the point of beginning." If the property boundary does not include the monument at which the description begins, and a tie call or calls must be used to get to the first corner of the property being described, the first corner of the description and the end of the tie are identified as "the true point of beginning," and the same term is again used in the closing call.

9-9.5.1 Controls

A. A good description makes frequent use of "controls" which will govern over either bearings or distances recited. For instance, it is common practice on the closing course to recite ". . . , more or less, to the (true) point of beginning." This final call will then automatically be forced to close on the (true) point of beginning in spite of any errors of survey or description language.

B. The following are examples of other common controlling language:

1. "Thence North 89° 59' East 590', more or less, to the west line of Primary State Highway No. 16, Twisp to Winthrop." This call would run to the west line of the highway even if the true distance is actually 600 feet. Similarly, the call does not overrun the highway, even though the true distance is only 550 feet. This is true even without the words, "more or less" appearing in the call (108 Wn. 413).

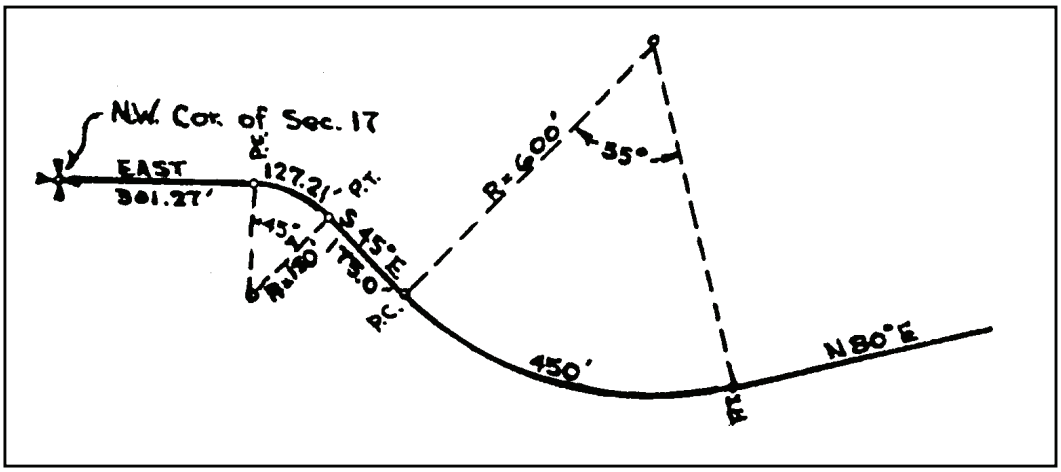
2. ". . . thence North 17° 31' West along the southwesterly right of way line of the N.P.Ry.Co. . . ." Regardless of the true bearing of the railway right of way line, this call would follow along the right of way boundary.

3. ". . . thence East 120', more or less, to the southeast corner of a tract of land conveyed to Elmer Fudd, by deed recorded in Vol. 799 of Deeds, Page 601, records of said county . . ." (124 Wn. 179). This is good practice, particularly when describing property adjacent to a tract which was carved out of a larger parcel at some date prior in time. Such a point in a prior description may even be used as a "point of beginning." Care should be taken, however, to be certain that the description in the deed referred to is adequate. Such a control will insure against an accidental hiatus (gap) or overlap in the descriptions of the two parcels.

9-9.5.2 Description of Curved Lines

Boundary lines running along curves are frequently encountered in descriptions bordering in highways, county roads, and railroads.

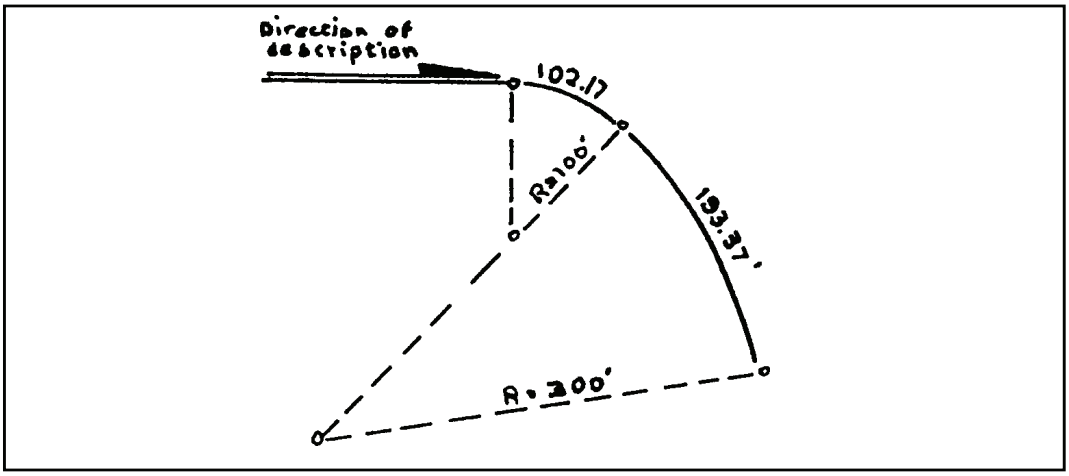
A. A description of the line in Figure 9-9.5.2A would read: "Beginning at the Northwest corner of Section 17, Township _____, Range _____ E, WM; thence East along the North line of said section 301.27'; thence along the arc of a curve to the right having a radius of 150.0 feet a distance of 127.21 feet, (or through a central angle of 45°: thence South 45° East 175.0 ft; thence on the arc of a curve to the left having a radius of 600 feet a distance of 450 feet; thence North 80° East . . ."



Typical Curved Line (Example)
Figure 9-9.5.2A

B. A compound curve is one in which the radius of the curve is changed somewhere along the arc without the intervention of a tangent course.

The description of the line Figure 9-9.5.2B would read: "thence along the arc of a curve to the right having a radius of 100 feet a distance of 102.17 inches; thence along the arc of a curve to the right, having a radius of 300 feet, a distance of 193.37 . . ."



Compound Curve (Example)
Figure 9-9.5.2B

9-9.6 Platted Property

The recording of an official plat with the County Auditor considerably simplifies the legal descriptions of the properties shown on the map. Generally, any lot or block identified on the face of the plat can be accurately described by simply naming the lot, block, name of the addition, and the name of the county and state and reciting the volume and page of plats and the county where the official copy of the particular plat has been recorded. The name of the plat, as well as the volume and page, should be taken only from reliable sources.

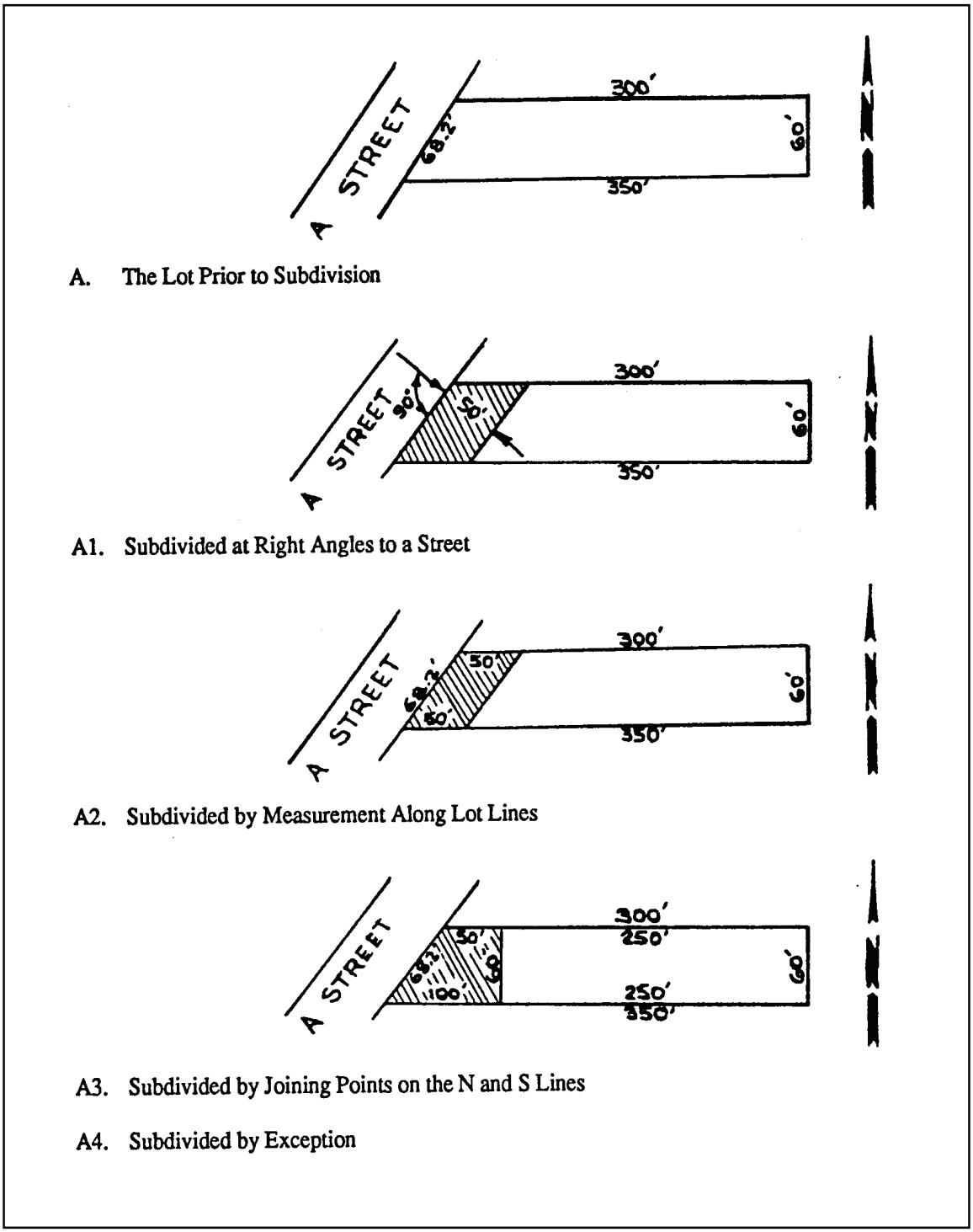
Where the conveyance covers all of a given lot or block, little difficulty can arise if care is taken to recite the plat name and recording information accurately. Problems do, however, frequently arise in the description of part of a platted lot.

Where the lot is rectangular and oriented N and S, or E and W, there are few difficulties encountered in describing a fraction of the lot. The east 100 feet, or the east 1|2, or the east 2 acres, of a given lot, are all determinable with certainty. A different and considerably less simple problem exists where the lot is not rectangular or is not oriented N and S, or E and W. Consider the following cases:

A. How would you measure the west 50 feet of the lot at A in Figure 9-9.6A?

Obviously, there are several ways in which the measurement could be made and to eliminate all possibilities of misinterpretation, the description should be reworded so that it can be interpreted in only one way. Sections 9-9.6A1 through 9-9.6A4 illustrate the desirable language to cover various possible intentions of the parties.

1. The westerly 50 feet, when measured at right angles to "A" St. (see A1, Figure 9-9.6A).
2. The westerly 50 feet, when measured along the north and south lines (see A2, Figure 9-9.6A).
3. All that part of Lot, Block Addition, lying westerly of a line drawn from a point on the north line of said lot, 50 feet easterly of the northwest corner thereof, southerly to a point on the south line of said lot, 100 feet easterly of the southwest corner thereof (see A3, Figure 9-9.6A).
4. An easier way to describe the same parcel as in Section 9-9.6A3, would be as follows: All of Lot _____, Block, _____ Addition, according to the plat thereof recorded in Vol. _____ of Plats, Page _____, records of _____ County, Washington, except the east 250 feet thereof (see A4, Figure 9-9.6A).



Possible Subdivisions of a Platted Lot (Example)
Figure 9-9.6A

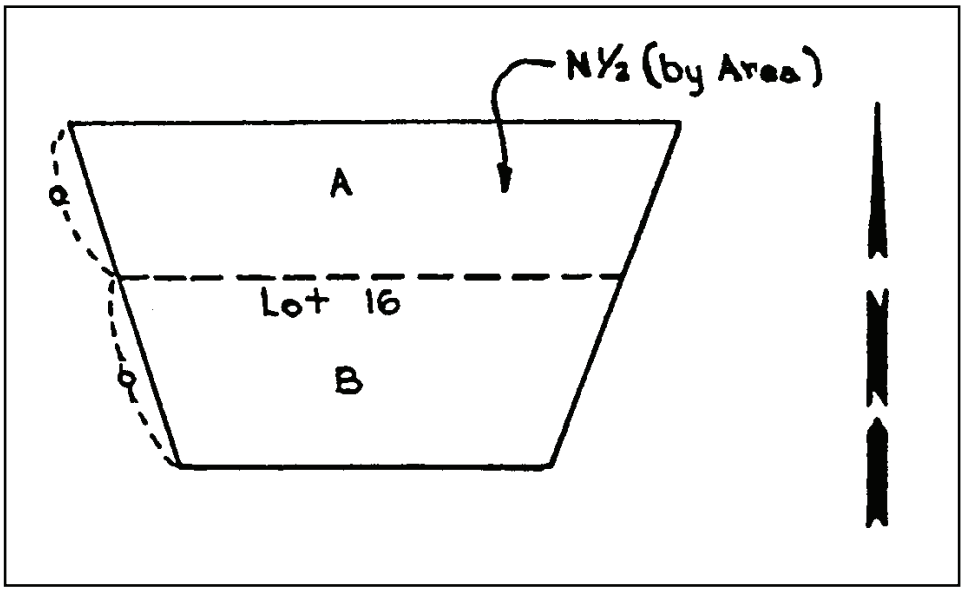
B. Generally, directions unless qualified or controlled by other words (such as "parallel with" or "along the section line") will be construed as meaning due North, East, etc. (2 Wn. 198, 135 Wn. 539).

C. A description calling for the "north half" is interpreted north half in area, not necessarily a line mid-way between the north and south lines (16 Wn. 39, 68 Wn. 351).

The description of Tract "A" in Figure 9-9.6C is as follows: "N 1|2 Lot 16." Therefore, Lot 16 is divided by a due East-West line so that the area of Tract "A" is equal to the area of Tract "B." Obviously, the distance "a" is less than the distance "b."

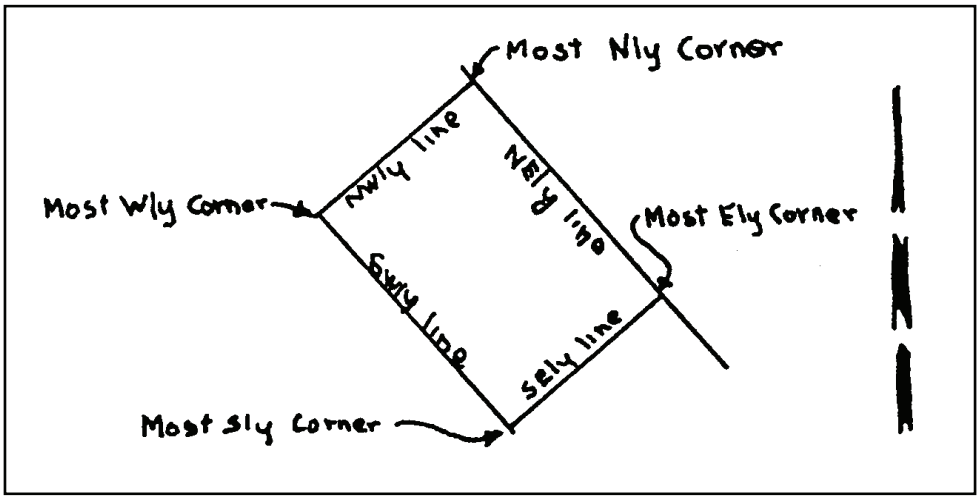
Even if the N and S boundaries were not parallel, the dividing line would be a due E and W line, creating two parcels equal in area.

The only exception to the above rule is where such language is used in connection with the government subdivision, then the rules for subdividing sections apply (see Section 9-9.3).



Subdivision by Area — Platted Lands (Example)
Figure 9-9.6C

D. Where a lot is not oriented N and S, or nearly so, the possibility of confusion exists when referring to the lines and corners of the lot. In Figure 9-9.6D, it would be difficult to determine which corner is the "northwest corner" of the lot, or which line is the "North" line. Terminology which eliminates the difficulty is shown in Figure 9-9.6D.



Orientation of a Lot (Example)
Figure 9-9.6D

E. Care must be taken in combining descriptions of fractions of lots with full lots to be certain that the resulting description is free of ambiguity. For instance, does "the W 1/2 of lot 7 and lot 8" mean all of lot 8 or only the "W 1/2?" All question of interpretation is removed by reciting the full lot first, as "All of Lot 8 and the W 1/2 of Lot 7," if that is the desired intention.

F. If parts of two lots, together with a full lot are to be described, clarity can be assured by the following style:

The N 1/2 of Lot 7, all of Lot 8 and the S 1/2 of Lot 9.

9-9.7 Streets, Roads, and Highways

Generally, any description adjoining on a street, road, or highway, which is only an easement, carries by implication the underlying fee to the center of the street. This is not true where the right of way is held in fee. For many years, almost all state highways have been acquired in fee, and since June of 1909, streets acquired by condemnation by cities and towns could be acquired in fee and therefore properties adjoining such rights of way do not carry any underlying interest in the road. Practically, all streets dedicated to the public on recorded plats are considered to be mere easements, and the owner of an abutting lot also has the underlying fee to the adjacent half of the street (79 Wn. 455 and 137 Wn. 452).

Where a street has been vacated, a question arises as to whether the vacated portion adjoining will pass without specific mention thereof in the conveyance. Generally, this will be governed by whether or not the vacated portion is of sufficient size to be capable of separate use.

If the vacated land is a narrow adjacent strip, as where an 80-foot street is narrowed to 60 feet by the vacation of the outer 10 feet on each side, or where it is a narrow alley, a conveyance of the adjoining land after the vacation would carry the vacated lands automatically whether mentioned in the deed or not (52 Wn. 341, 167 Wn. 39).

However, if the vacated strip is capable of separate use, it must be described to indicate an intent of the grantor that he did not wish to retain title to the strip (74 Wn. 462, 137 Wn. 452).

A perimeter street in a plat dedicated prior to June 13, 1901, attaches entirely to the abutting lots, provided the plattor owned nothing beyond the limits of the area platted. The logic is obvious that owners outside the limits of the plat had no part in the dedication of the perimeter street, and when the easement to the public is lifted by the vacation proceedings, the original boundary line is restored to exactly where it was at the time of the vacation (54 Wn. 595).

The Act of 1901 purports to take the outer half of a perimeter street away from its rightful owner (i.e., the plattor or his successors) and give it to the abutting owner outside the limits of the original plat. This point has apparently not been before our courts, but it is very likely that the statute might be considered unconstitutional. Article I, Section 16, Amendment 9, provides that private property shall not be taken for private use.

In addition to the usual formal vacation proceedings, a platted street may become vacated under the nonuser statutes (Laws of 1889-90, Section 32, page 603, amended by Laws of 1909, Chapter 90, page 188) provided that all of the following conditions are met:

A. The plat must have been recorded on March 12, 1904, or earlier.

B. The streets dedicated thereon must have remained unopened for a period of not less than five years after platting and prior to March 12, 1909.

C. The plat must have been outside the limits of a corporate city at the time of platting and for the entire five-year period during which the streets remained unopened.

In simple cases, the vacation of a street causes the adjacent half of the street to attach to the abutting ownership between the side lines of the property projected to the center of the street. For complicated intersections, as with diagonal streets, the area which attaches to each lot becomes very controversial and may even result in some portions remaining with the original plattor, or even "no man's land" (203 Wn. 331). The best language to use in a description which includes portions of vacated streets or alleys falling in this category is: ". . . together with that portion of vacated street attaching thereto by operation of law."

An additional point of importance in right of way work, is that since June 9, 1949 (Laws of 1949, Chapter 14), a city or town may retain an easement for utilities within the vacated streets or alleys. This could take the form of reserving the right to continue the occupation and maintenance of existing utility facilities, or may even reserve the right to grant future easements and franchises within the area. Further, since June l2, l975 (Laws of l975, Chapter 22), counties may retain easement rights for the construction, repair, and maintenance of public utilities and services whenever a county road, or portion thereof, is vacated. The public utility must be authorized or physically located on the land being vacated prior to the time the county, by resolution, authorizes said land to be vacated. The legislative body is restricted from conveying such easement to any public utility, but may convey a franchise to a public utility.

Formal vacation of streets and roads outside the limits of cities is accomplished by order of the Board of County Commissioners (RCW 35.79). Within cities, it is accomplished by ordinance (RCW 36.87).

9-9.8 Title Problems

9-9.8.1 Overlaps and Gaps

From various causes, such as faulty conveyancing or surveying, we frequently find titles which overlap each other, or where a hiatus (gap) has been created between two ownerships. While the solution of this problem can be complex as between the parties, it is relatively simple to handle as far as acquisition of the highway right of way is concerned.

In the case of the overlap, particularly where the area involved is small and not of high value, the right of way deeds should be so drawn that the controversial strip is included in the deeds secured from all parties having an apparent interest. The matter of compensation can usually be resolved by payment of 50 percent of the value of the overlap area to each party (presuming only two parties have claims on the area).

In the event of a hiatus, some weight can be given to physical boundary markers (as fences, rock walls, etc.) which might show that the party on one side or the other of the gap is claiming possession. This is especially true where the boundary marker has been recognized as such and acquiesced to by the neighbor for a period of ten years or longer.

In the event that there are no physical boundary indications, or if the area is of high value, the best procedure is to include the strip in the deeds from the owners on either side (or take a separate quitclaim deed), as well as securing the joinder of the original owner who conveyed out the two parcels and created the hiatus. In all but the most simple cases, the Region RESM (or his designee) refers the problem to the Assistant Director Title and Condemnation Program for resolution prior to final negotiation.

9-9.8.2 Appurtenances

A deed not only conveys all of the lands embraced within the legal description, but also carries, without the need of specific mention, all the appurtenances and incidentals rightfully belonging to it, and which are essential to the full and perfect enjoyment of the property (29 Wn. 70, 121 Wn. 572).

It is quite commonly known that this includes buildings, fences, timber, wells, crops, etc., but there are many other interests and rights which will pass with the deed which are not so well known. Some of these are:

A. Appurtenant easements (120 Wn. 144).

B. The underlying title to adjoining streets, roads, and railroads (if they are easements and not fee).

C. Ditches (72 Wn. 547).

D. Vacated alley (52 Wn. 341).

E. After acquired title (if Statutory Warranty, or Bargain and Sale Deed, or if Quit Claim Deed specifically includes after-acquired title clause).

F. Title to a building lying partly outside the limits of the lands conveyed (30 Wn. 2nd 4).

G. Rights in a party wall (Am. Jur. Party Wall 39).

H. Water rights (54 Wn. 2nd —).

9-9.9 Line Survey Descriptions

9-9.9.1 General

A. In a total acquisition, the only property descriptions on the instrument is the parcel description.

B. In a partial acquisition, the instrument includes both a description of the acquisition portion and the parcel description.

C. In the case of a partial acquisition for roadway purposes, the state normally employs a "line survey description" in which the portion to be acquired is described in its relation to the highway project engineering data "over and across" the parcel description. All call-outs of Highway Engineer's Stations (HES) must be preceded by a proper line survey identification; e.g., LL, LR, A12. Example:

"... at a point opposite HES LR 250+00 on the LR line survey of ..."

D. Upon demand by a grantor having substantial real estate holdings (usually a corporate body), a metes and bounds description of the acquisition is drawn by the Region RESM in coordination with the Assistant Director Title and Condemnation Program. The Region RESM initiates action to have the appropriate metes and bounds incorporated on the Right of Way Plan.

E. All engineering data upon which any acquisition description is based appears on the approved plan of the project (i.e., the *Right of Way Plan* or the *Sundry Site Plan*).

F. The sample descriptions cited in Section 9-9.13 are used as models for drafting of property descriptions for acquisition purposes.

9-9.9.2 Acquisition Portion

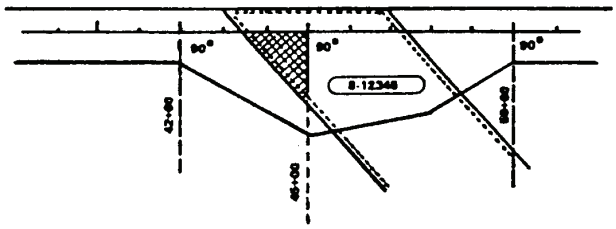
The following special rules apply to "line survey" acquisition descriptions:

A. The word "opposite" properly means, "at right angles to" when in reference to a determined point (HES) on an established line (line survey) whether the established line is straight or a curve. When measured "opposite" an established curved line, the measurement is along the radius of such curve.

B. The term "when measured at right angles to and/or radially from" is properly used when the distance measured is from an established line without reference to a point on the established line.

C. A line which is parallel with an established line follows all the sinuosities of the established line and remains the stated distance from the established line.

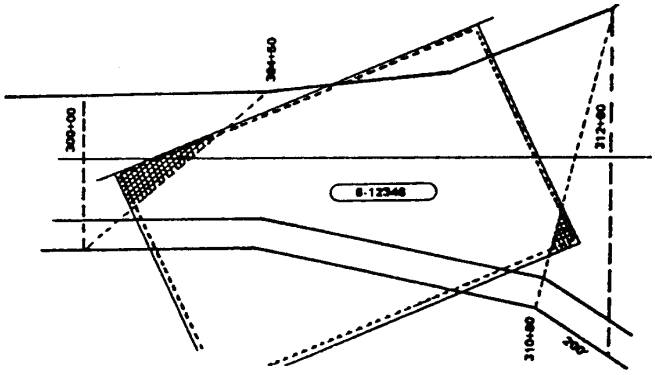
D. If that portion of a parcel which is to be acquired lies in a given direction from a described line, perpendiculars to the reference line drawn from the ends of the described line, must include all of the portion of the parcel which is to be acquired (see Figure 9-9.9.2D).



Although the point opposite HES 45 + 00 lies outside parcel 8-12345, the shaded area would not be included in the description. (See Section 9-9.13I)

Acquisition Portion (Partial Acquisition) (Example)
Figure 9-9.9.2D

E. If that portion of a parcel which is to be acquired lies between two lines, lines drawn to connect the ends of the two described lines must lie beyond all of that portion of the parcel to be acquired (see Figure 9-9.9.2E).



Although the points opposite HES 300 + 00, HES 304 + 50, HES 310 + 80, and HES 312 + 00 are all outside parcel 8-12346, the shaded areas would not be included in the description if the "take lines" are limited to between HES 304+50 and 312+00 on the north side and between HES 300+00 and 310+80 on the south side. It is obvious that lines drawn between the respective termini fail to include all of the necessary take. The "take lines" in this case must extend from HES 300+00 to 312+00 on both sides. See Section 9-9.13J.

Acquisition Portion (Partial Acquisition) (Example)
Figure 9-9.9.2E

F. The ends of a strip which are contiguous to a right of way are closed by lines which are described as being perpendicular to the highway line survey (see Figures 9-9.13C and D), or by using a metes and bounds description.

G. In a metes and bounds description (see Figure 9-9.13K and L), the perimeter of a tract of land is described by:

1. Starting at a definitely known (i.e., monumented) point.
2. Stating bearings and distances of a line or lines from the monumented point to a point on the boundary of the tract (i.e., the "true point of beginning").
3. Stating bearings and distances for each successive boundary line of the tract. The use of "more or less" following the distance will prevent overlaps or gaps but should not be used haphazardly. It is usually used with the last distance call to be sure of closure as in Figure 9-9.13L; it may be used elsewhere only when another element (monument fixes the point without regard to the actual distance (as in Figure 9-9.13K).
4. Returning (closing) at the "true point of beginning."

H. When referring to a section corner or to a quarter corner, reference is made only to the section in which lies the point of beginning of the parcel to be described.

I. The first reference made in a description to a section includes the Township (and its North/South identification number) and Range (and its identification number East or West of the Willamette Meridian). Thereafter, reference is made only to "said section."

J. Reference in a description to a right of way plan title is made at the first mention of any highway project. Viz.: "Beginning at a point on the "X" Line survey of SR No. (plan title in full)." Thereafter, reference may be made by stating "said highway" (see Section 9-5).

K. In the use of the word "said": No similar item can intervene between the item and references to it in the description. Thus, if two line surveys are involved in a description, all references to the "said line survey" which refer to the first line survey should precede any mention of the second line survey. If an intervention must occur, the next reference to the first survey line must repeat the identification of the first line survey. "Said *(noun)*" always refers to the last previous use of that noun *and* its descriptive modifiers.

L. Unnecessary wordiness is avoided. E.g., "To wit"; "thence run" or "thence running"; stating "said Township and Range" after each mention of a section; "distant" or "a distance of" (but see M, below); etc.

M. The words "a distance of" are used only to separate two sets of figures. E.g., "189+24 254.25 feet" should be written "189+24 a distance of 254.25 feet."

N. The following are always spelled out:

1. The word "feet."
2. Reference to subdivisions of a section (northwest quarter) and directions (northerly).

O. Symbols (' for feet) or abbreviations (NW) (Nly) are avoided, except that bearings are shown as follows: North 1° 34' 27" East.

P. "Beginning" is preferred to "commencing" (archaic) and "according to plat" is preferable to "as per plat."

Q. When describing strips of land as being certain widths on each side of a survey line, the term "on each side" is used only when the widths are the same. *Do not* use the term "on either side."

R. If reference to line survey stationing appears more than once in a description, the following statement may be used at the first reference: "Highway Engineer's Station (hereinafter referred to as HES)." Thereafter, the abbreviation "HES" may be used. When two lines are described as the boundaries of the acquisition description, they should both proceed in the same direction (preferably in the direction of increasing HES numbers).

S. A description copied from a tax statement or a tax receipt is not acceptable. Further, the Assessor's tax lot number (or description) is not normally an acceptable description.

T. The term "Parcel A type description" refers to a method of acquisition description in which the acquisition portion is separate and distinct from the parcel portion of the description. The acquisition portion includes the phrase "all that portion of the following described Parcel A lying . . .", and is followed by the whole parcel description as contained in the PC and identified in the instrument as "PARCEL A:." The use of "A" is arbitrary and may be any other letter of the alphabet, but no letter is used more than once in any given instrument. (See Section 9-9.13 below for circumstances in which a Parcel A type description is appropriate.)

9-9.9.3 Parcel Description

A. In the case of a total acquisition, the legal description of the grantor's property is given exactly as it appears in the title report; except that the Acquisition Agent is authorized to change all dimensional units (e.g., rods) to feet; and, with the approval of the Region RESM may make any changes in the PC's description which are necessary to achieve clarity or simplicity. The format for descriptions is given in Section 9-1.222D. If a vacated street or road is included, see Section 9-9.4.

B. In the case of a partial acquisition, either:

1. The parcel description is inserted as a Parcel "A" type of description following the description of the acquisition portion (the line survey description or a second tract description as in Figure 9-9.13L).

2. The parcel description is included within the acquisition description when the parcel description is very short and the acquisition description is relatively simple as in Figure 9-9.13E.

C. A Parcel "A" description too long for a preprinted form may be typed and appended as an "EXHIBIT" on a separate, 8½" x 11" sheet of white bond paper. In the space on the preprinted form in which such description would otherwise appear is inserted the reference, binding the exhibit to the instrument (see Section 9-17.4).

D. Following are those situations in which the Parcel "A" type of description is normally used:

1. The parcel is described by metes and bounds.

2. The parcel description contains an exception.

3. The parcel description is a complicated portion of a subdivision of a section or of a larger tract or lot. E.g.; "That portion of the south 200 feet of the north 350 feet of the west 147 feet of the east 177 feet of Tract 19 lying . . ."

4. The parcel lies in three or more 40-acre subdivisions of a section

E. There are often cases in which more than one taking is required from a single ownership and/or where more than one parcel is described in the PC, with takes required from more than one such parcel (see Figure 9-9.13G).

1. Multiple takings in a single instrument are identified as "Tract I," "Tract II," etc., and are used in the following situations:
   a. Takings which are separated from each other, although taken from a single PC parcel.
   b. Takings in which the acquisition portion of the description would be so complicated that greater clarity can be achieved by breaking it into two or more parts.
2. Multiple PC parcels are identified in "Parcel A type descriptions" as "Parcel A," "Parcel B," etc.
3. Examples:

   "Tract I: All that portion of the following described Parcel A lying . . ."

   "Tract II: All that portion of the following described Parcel A (B) lying . . ."

9-9.10 County Roads Acquired

Conveyances from the counties for all roads within a given highway project contain adaptations from the following property description:

> ". . . All County Road rights of way, together with all appurtenances thereto, located within . . . "

9-9.11 Exchange Agreement

The exact description used on the deed from the state may vary somewhat in detail from the description used in the *Exchange Agreement* (Form RES 322). Care is exercised to provide an accurate description in the *Exchange Agreement* based on conventional survey ties, on plats or on survey line ties and distances shown on the appropriate Project Plan.

9-9.12 Vacated Street or Road

If the PC or a court determination attaches a vacated street or road (or portion thereof) to the parcel description, include in the parcel description appropriate language from the PC to cover the vacation, or adapt the following:

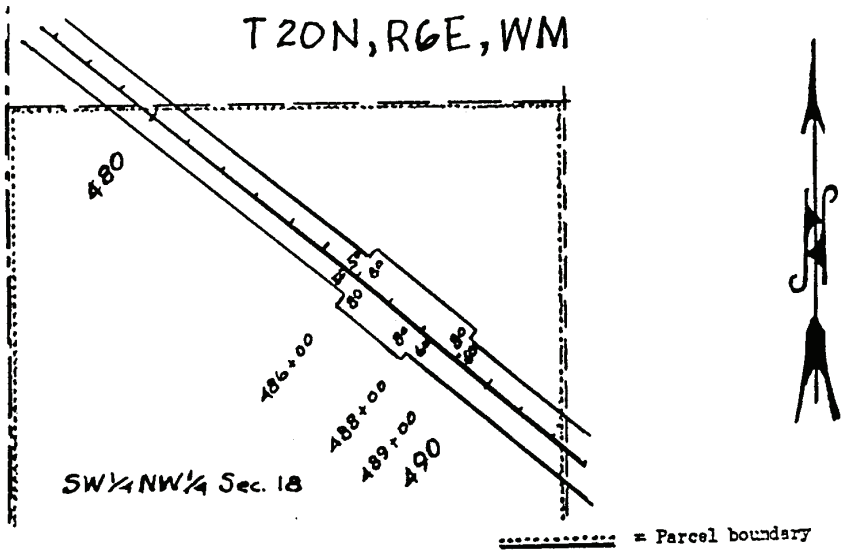
> ". . . together with that portion of vacated *(name of street)* attaching thereto by operation of law . . . "

9-9.13 Sample Descriptions

The following examples are used to show type descriptions most frequently occurring.

A. Line Survey Strip — Varying Widths By Exception

When the major portion of a strip-type take is of constant width (same or different on each side), the strip is described throughout its entire length as being of that constant width, with minor differences shown as exceptions, Figure 9-9.13A. Compare with Figure 9-9.13B. The Figure 9-9.13A description can be written in many different forms, but none will be as concise as the one here given.

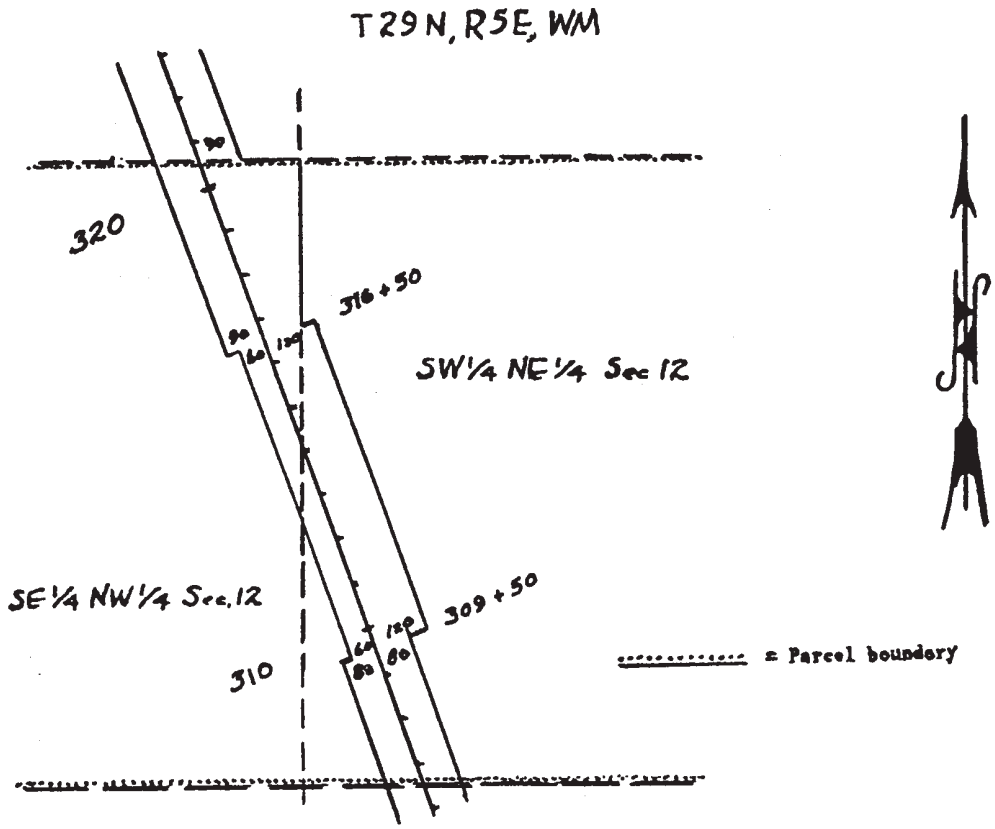


A strip of land 100 feet wide, being 50 feet wide on each side of the line survey of SR 164, Auburn to Enumclaw, as surveyed over and across the southwest quarter of the northwest quarter of Section 18, Township 20 North Range 6 East, W.M.; EXCEPT that from Highway Engineer's Station (hereinafter referred to as HES) 486+00 southeasterly to HES 488+00 said strip of land shall be 160 feet wide, being 80 feet wide on each side of said line survey; EXCEPT that from HES 488+00 southeasterly to HES 489+00 said strip of land shall be 140 feet wide, being 80 feet wide on the northeasterly side of said line survey and being 60 feet wide on the southwesterly side of said line survey; EXCEPT that from HES 489+00 southeasterly to the east line of said subdivision said of land shall be 120 feet wide, being 60 feet wide on each side of line survey.

Line Survey Strip — Varying Widths by Exception (Example)
Figure 9-9.13A

B. Line Survey Strip by Varying Widths

Where there is no major position of a strip-type description which is of a constant width, the widths are described in succession from one side of the ownership to the other as in Figure 9-9.13B.



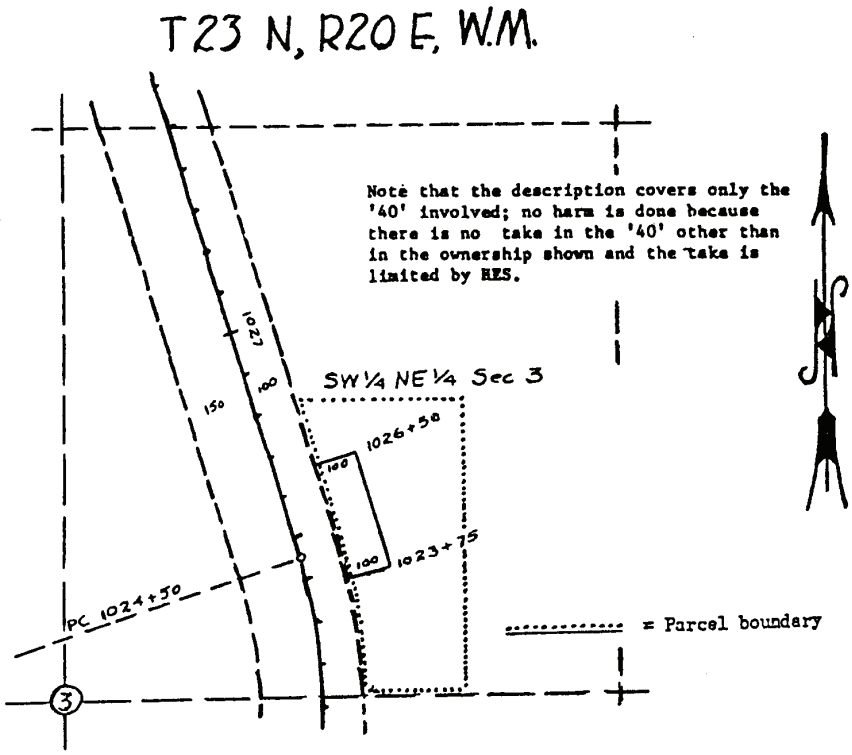
A strip of land having widths as hereinafter set forth, on each side of the line survey of SR 9, Snohomish to Arlington, as surveyed over and across the southwest quarter of the northeast quarter and the southeast quarter of the northwest quarter of Section 12, Township 29 North, Range 5 East, W.M.:

From the southerly line of said southwest quarter of the northeast quarter northwesterly to Highway Engineer's Station (hereinafter referred to as HES) 309+50 said strip shall be 160 feet wide, being 80 feet wide on each side of said line survey; from HES 309+50 northwesterly to HES 316+50 said strip shall be 180 feet wide being 60 feet wide on the southwesterly side of said line survey and 120 feet wide on the northeasterly side of said line survey; and from Hes 316+50 northerly line of said southeast quarter of the northwest quarter said strip shall be all that portion of said subdivision lying northeasterly of a line drawn parallel with and 90 feet southwesterly from said line survey.

Line Survey Strip by Varying Widths (Example)
Figure 9-9.13B

C. Additional Strip — Uniform Width Figure

Required strips abutting upon an existing right of way line are described as being on the proper directional side of the existing right of way, and parallel with and contiguous to the existing project by full SR number and title, as in Figure 9-9.13C.

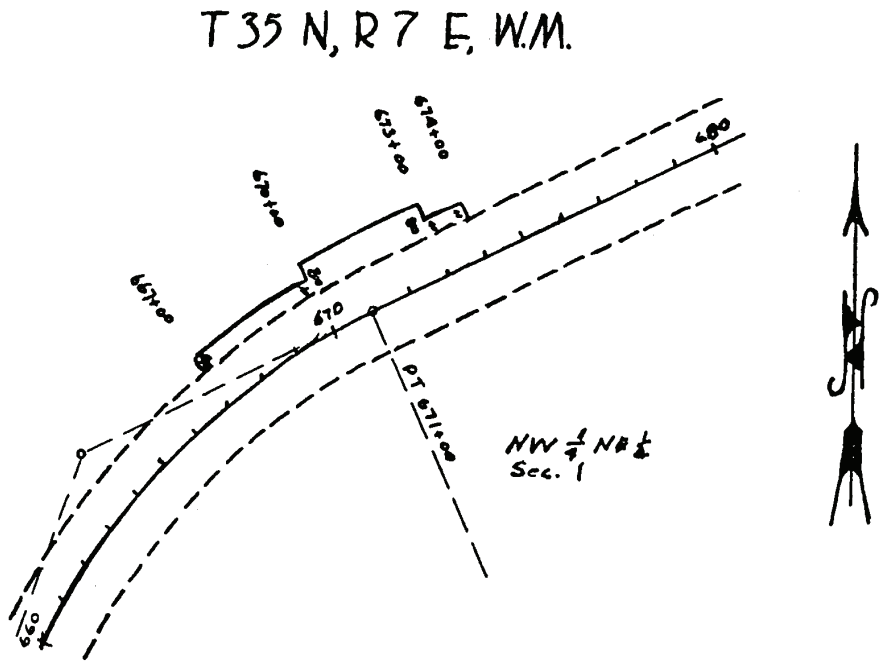


A strip of land 100 feet wide, being easterly of, parallel with and contiguous to, the existing easterly right of way line of SR 97, Olds to Zena, in the southwest quarter of the northeast quarter of Section 3, Township 23 North, Range 20 East, W.M., and extending from a line drawn northeasterly at right angles to the line survey of said highway from Highway Engineer's Station (hereinafter referred to as HES) 1023+75 northerly to a line drawn northeasterly at right angles to said line survey from HES 1026+50.

Additional Strip — Uniform Width (Example)
Figure 9-9.13C

D. Additional Strip — Varying Widths

Figure 9-9.13D illustrates a more complicated additional strip. Note the relationship of this description to that contained in Figure 9-9.13A.



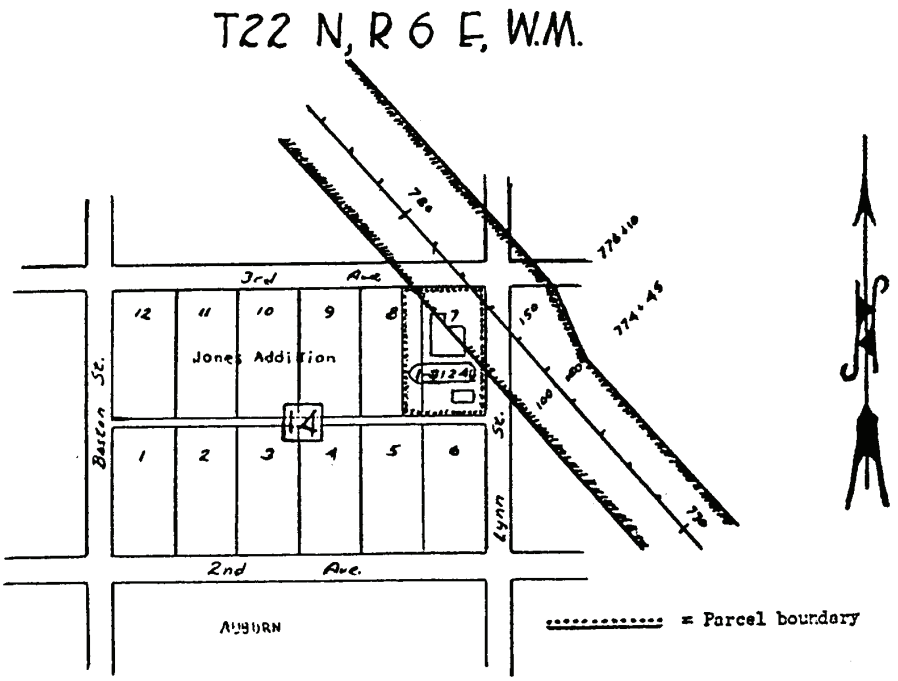
A strip of land 40 feet wide, being northwesterly of, parallel with and contiguous to the existing northwesterly right of line of SR 20, Birdsview Vicinity, in the northwest quarter of the northeast quarter of Section 1, Township 35 North Range 7 East, W.M., and extending from a line drawn northwesterly at right angles to the line survey of said highway from Highway Engineer's Station (hereinafter referred to as HES) 674+00, southwesterly to a line drawn northwesterly radially from HES 667+00 on said line survey: EXCEPT that from a line drawn northwesterly at right angles to said line survey from HES 673+00 southwesterly to a line drawn northwesterly radially from HES 670+00 on said line survey said strip shall be 80 feet wide.

Additional Strip — Varying Widths (Example)
Figure 9-9.13D

E. Straight Portion Off Corner or Side of Lot and Block Site

Where an ownership lies entirely to one side of the alignment, all of the parcel is taken that lies within the alignment by merely using the proper direction from the right of way line that traverses the parcel. Figure 9-9.13E.

(Note; The ownership lines show this ownership to include Lot 7 and a small portion of Lot 8. Since there is no take from the rest of Lot 8, no harm is done in specifying Lot 8 as a whole.)

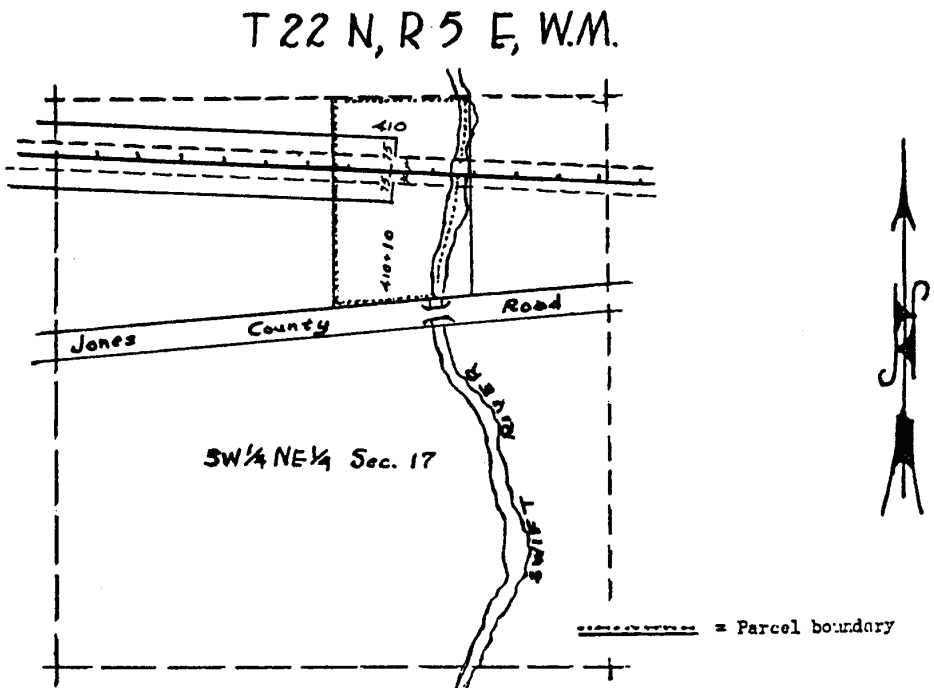


All that portion of lots 7 and 8, Block 14, of the Jones Addition to the city of Auburn lying northeasterly of a line drawn parallel with and 100 feet southwesterly from the line survey of SR 164, Auburn to Enumclaw.

Straight Portion off Corner or Side of Lot and Block Site (Example)
Figure 9-9.13E

F. Strip Out of Parcel "A"

The ownership in Figure 9-9.13F appears to be a metes and bounds description or to contain an exception; hence it is stated following the acquisition portion of the description. Note that the description appears to "re-take" the existing right of way, but such right of way is probably an exception in the PC parcel description.



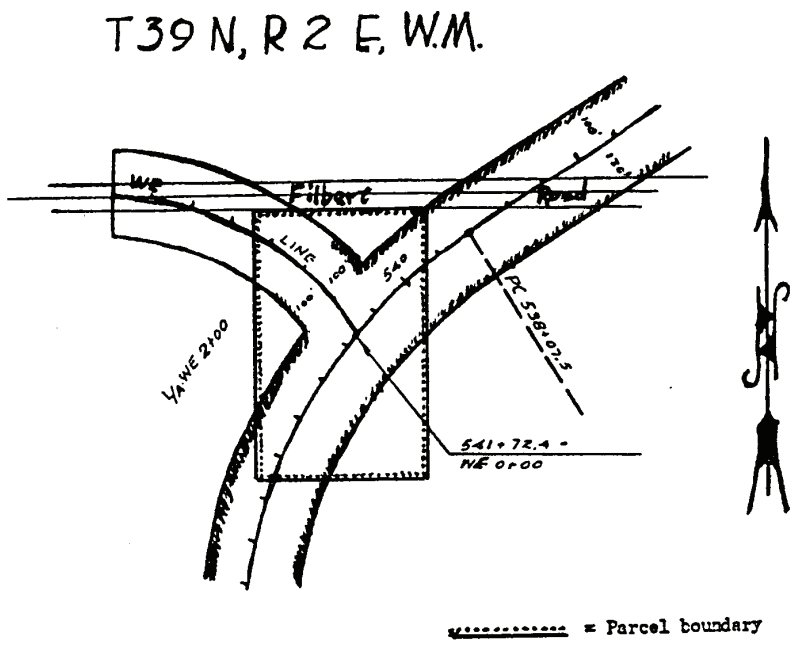
All that portion of the hereinafter described Parcel "A" lying within a strip of land 150 feet wide, being 75 feet wide on each side of the line survey of SR 164, Auburn to Enumclaw, and extending from the west line of said Parcel "A" easterly to a line drawn northerly and southerly at right angles to the line survey of said highway through Highway Engineer's Station 410+10.

Parcel "A" (Description of parcel)

Strip Out of Parcel "A" (Example)
Figure 9-9.13F

G. Two Line Surveys — Tract I and II Out of Parcel "A"

When a take involves two line surveys it is often convenient to describe two separate takes — one based on one line survey, and the second based on the other line survey. In Figure 9-9.13G, note that the Tract II description excludes any portion lying within Tract I even though the basic strip extends to the line survey used in Tract I.



Tract I:

All that portion of the hereinafter described Parcel "A" lying within a strip of land 220 feet wide, being 100 feet wide, when measured radially, on the northwesterly side of the line survey of SR 5, Ferndale to Custer, and 120 feet wide, when measured radially, on the southeasterly side of said line survey.

Tract II:

All that portion of the hereinafter described Parcel "A" lying within a strip of land 200 feet wide, being 100 feet wide, when measured radially, on each side of the WE Line, line survey of said highway, and lying northwesterly of the above described Tract I.

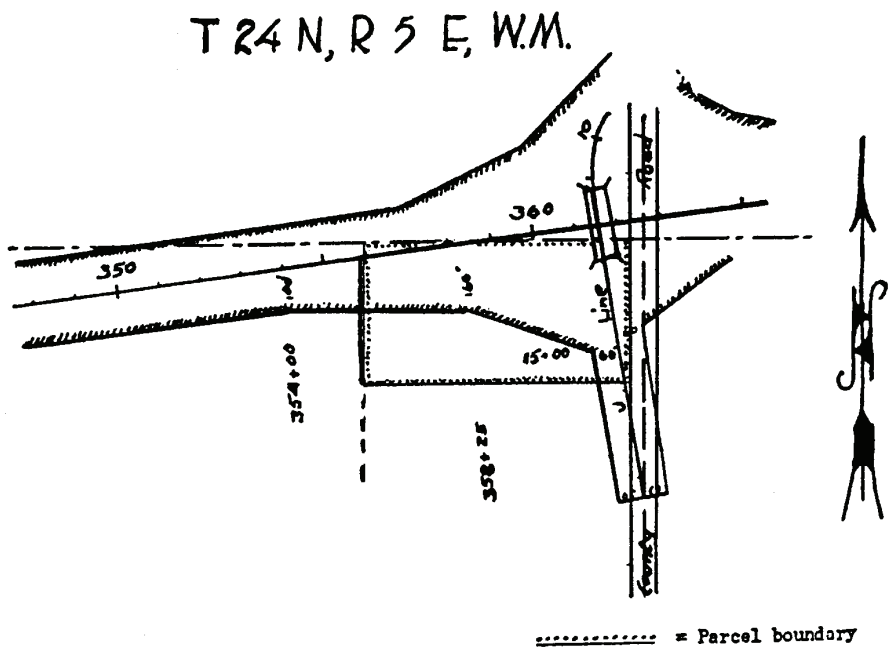
Parcel "A": (Description of parcel)

The access clause would be a composite of the clauses stated in Sections 9-10.1.2 (basic) and 9-10.1.5.1 (reservation by highway connection to the WB Line northwesterly of HES WE 2+00), plus one of the clauses stated in Section 10-10.6 depending on what is existing.

Two Line Surveys — Tract I and II Out of Parcel "A" (Example)
Figure 9-9.13G

H. Two Line Surveys — Line Description Off Corner or Side of Parcel "A"

Two line surveys do not necessarily make a two tract description. In Figure 9-9.13H, the relationship of the two lines survey to the take makes a two tract description unnecessary, indeed difficult, because the last segment of the take-line description depends on stationing on the second line survey. Note that the distance call of that same segment is merely enough to get outside the ownership (without apparent cover of the easterly boundary because the take is described in terms of both northerly and easterly of the take-line).



All that portion of the hereinafter described Parcel "A" lying northerly and easterly of a line beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 354+00 on the line survey of SR 90, Factoria to Eastgate, and 100 feet southerly therefrom; thence easterly to a point opposite HES 358+25 on said line survey and 160 feet southerly therefrom; thence southeasterly to a point opposite HES J 15+00 on the J Line survey of said highway and 60 feet westerly therefrom, thence southerly, parallel with said line survey, 100 feet to a point and the end of this line description.

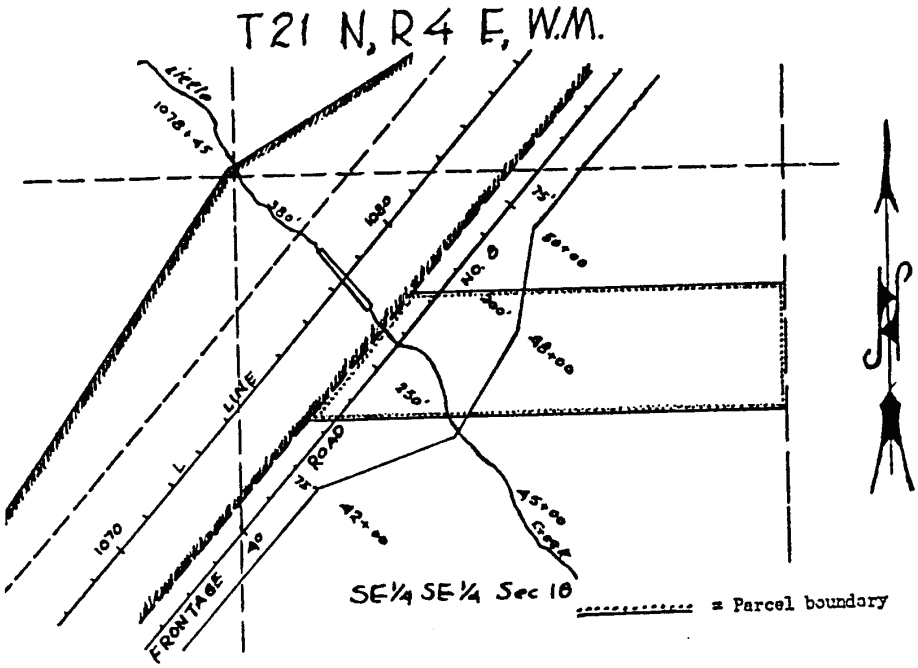
Parcel "A": (Description of parcel)

The access clause would involve the same clause as set forth in Figure 9-9.13G.

Two Line Surveys — Line Description off Corner or Side of Parcel "A" (Example)
Figure 9-9.13H

I. Line Description Off Corner or Side of Parcel "A"

Figure 9-9.13I illustrates the same principles as Figure 9-9.13E except that the take-line is not a straight line and is based on the frontage road survey line instead of a mainline line survey. Note that this description cannot begin at a point opposite HES 45+00 (on the FR 8 survey line) for a line projected northwesterly through that point would miss some of the take southwest of Little Creek.



All that portion of the hereinafter described Parcel "A" lying northwesterly of a line beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 42+00 on the SR 5, Pierce County Line to SR 526 Interchange, Frontage Road No.8 line survey and 75 feet southeasterly therefrom; thence northeasterly to a point opposite HES 45+00 on said line survey and 250 feet southeasterly therefrom; thence northeasterly to a point opposite HES 48+00 on said line survey and 200 feet southeasterly therefrom;thence northerly to a point opposite HES 50+00 on said line survey and 75 feet southeasterly therefrom and the end of this line description.

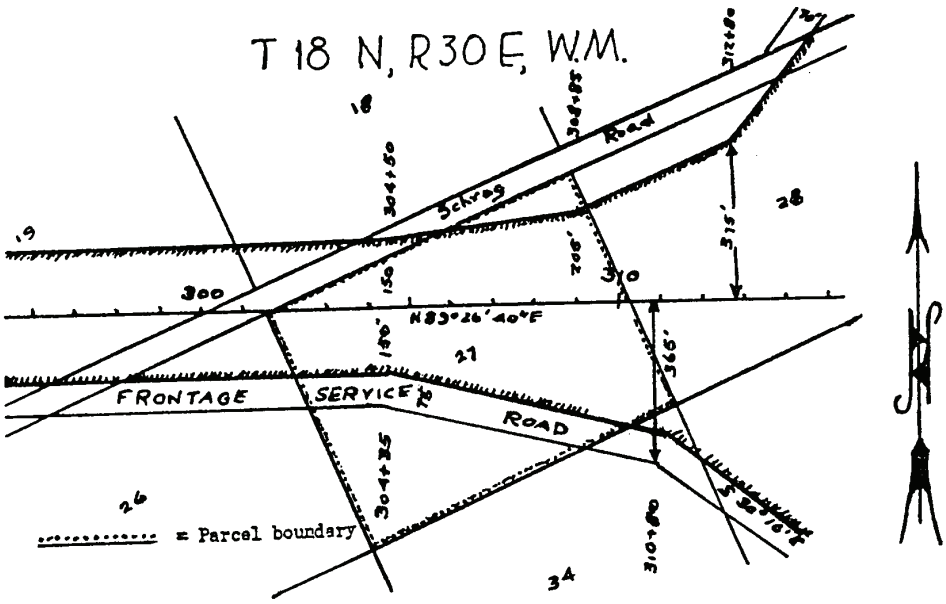
Parcel "A": (Description of parcel)

The access clause would be a compound of the clauses stated in Section 9-10.1.2 (basic) and 9-10.1.5.2.1 (reservation to frontage road) plus one of the clauses stated in Section 9-10.6 depending on what is existing.

Line Description off Corner or Side of Parcel "A" (Example)
Figure 9-9.13I

J. Strip Between Line 1 and 2 Out of Parcel "A"

Figure 9-9.13J is further illustration of the necessity of extending take-lines far enough to include all of the required property. Note that a line from HES 310+80 and 365 feet southerly therefrom to HES 312+80 and 375 feet northerly therefrom fails to cover the extreme southeasterly corner of the ownership. This is avoided by extending Line 1 some 200 feet southerly.



All that portion of the hereinafter described Parcel "A" lying between the following described Lines 1 and 2:

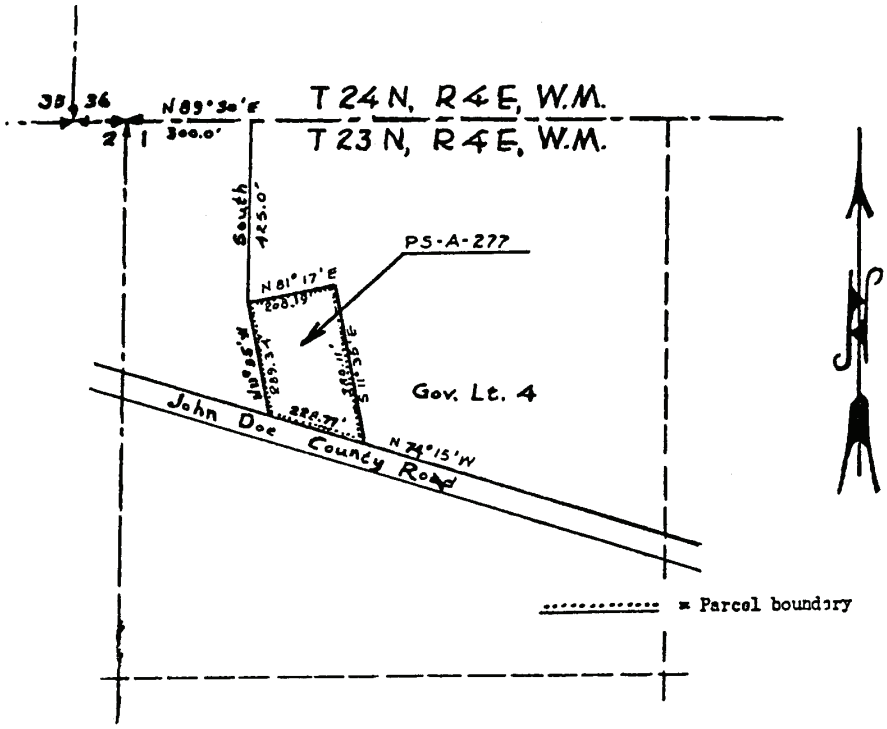
Line 1: Beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 300+00 on the line survey of SR 90, Moses Lake East and 225 feet southerly therefrom; thence easterly parallel with said line survey to a point opposite HES 304+35; thence southeasterly to a point opposite HES 310+80 on said line survey and 365 feet southerly therefrom; thence South 30º 10' East 200 feet to a point and the end of this line description.

Line 2: Beginning a point opposite HES 300+00 on said line survey and 150 feet northerly therefrom; thence easterly parallel with said line survey to a point opposite HES 304+50 on said survey line; thence easterly to a point opposite HES 308+85 on said line survey and 205 feet northerly therefrom; thence northeasterly to a point opposite HES 312+80 on said line survey and 375 feet northerly therefrom and the end of this line description.

Strip Between Line 1 and Line 2 Out of Parcel "A" (Example)
Figure 9-9.13J

K. Metes and Bounds Site

Figure 9-9.13K illustrates a total take by a metes and bounds description. Note that the phrase "more or less" follows three of the distance calls but each are terminated by a monument.



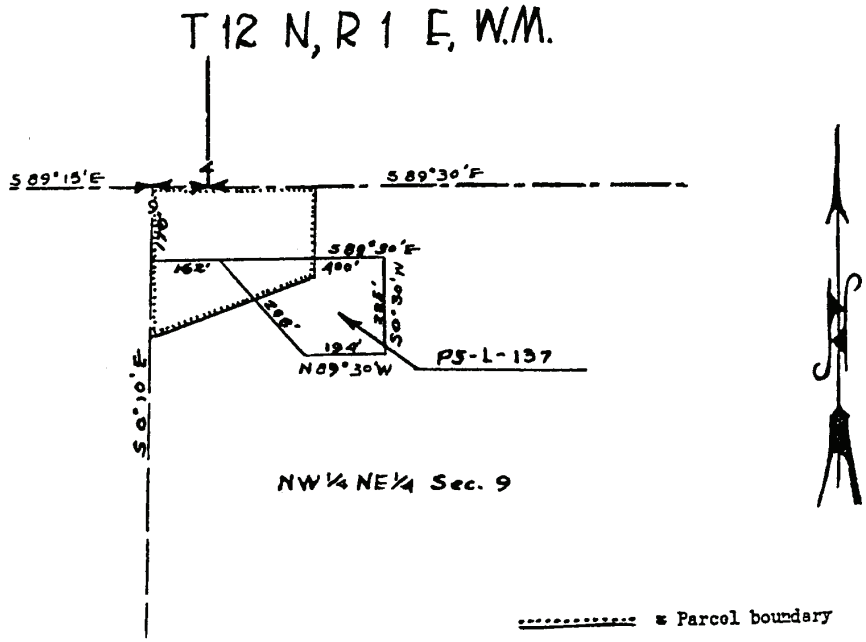
The portion of Government Lot 4, Section 1, Township 23 North, Range 4 East, W.M., described as follows:

Beginning at a point on the north line of said Section, North 89° 30' East 300.0 feet from the northwest corner thereof; thence South 425.0 feet to the true point of beginning; thence North 81° 17' East 208.19 feet; thence South 11° 35' East 380.11 feet, more or less, to the northerly margin of the John Doe County Road; thence North 74° 15' West along said road margin 228.77 feet, more or less, to a point which bears South 11° 35' East from the true point of beginning; thence North 11° 35' West 289.34 feet, more or less, to the true point of beginning.

Metes and Bounds Site (Example)
Figure 9-9.13K

L. Parcel "B" Metes and Bounds Site Out of Parcel "A"

Figure 9-9.13L illustrates an unusual use of the "Parcel B" phraseology. Here it is used to describe the take boundaries, whereas Parcel A is the ownership. This is a convenient method of description when there are no ties at the boundary intersections. Note that the phrase "more or less" follows only the final distance call, thus insuring closure of the description whether the actual distance is 275 or 305 feet.



All that portion of Parcel "A" which lies within Parcel "B," each as hereinafter described:

Parcel "A": (Description of parcel)

Parcel "B": That portion of the northwest quarter of the northeast quarter of Section 9, Township 12 North Range 1 East, W.M., described as follows:

Beginning at the north quarter corner of said Section; thence South 0° 10' East along the west line of said subdivision 170 feet; thence South 89°30' East parallel with the north line of said Section 162 feet to the true point of beginning; thence South 89°30' East 400 feet; thence South 0° 30' West 225 feet; thence North 89° 30' West 194 feet; thence northwesterly 298 feet, more or less, to the true point of beginning.

Parcel "B" Metes and Bounds Site Out of Parcel "A" (Example)
Figure 9-9.13L

9-10 Miscellaneous Clauses

9-10.1 Limited Access

9-10.1.1 Access Rights Only Conveyances

The appropriate language is included in the conveyance clause on the preprinted forms in which "Access Rights Only" are being conveyed. If there are exceptions to full control of access, the appropriate exception clause is also inserted as explained in Section 9-10.1.5 et seq.

9-10.1.2 Land and Access Rights Conveyances

The access control clause follows the property description clause in a conveyance of a partial acquisition, adapting the following:

> "Also, the grantors herein convey and grant to the state of Washington all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) to, from and between (full, official name of project) and the remainder of said (tract, lot or parcel "A")."
>
> ***Note:*** If an access reservation is provided, continue with the appropriate clause in Section 9-10.1.5 et seq.

9-10.1.3 Release of Lessee's Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following:

> "Also, said lessee hereby releases from the effect of said lease, all rights of ingress and egress (etc., as in Section 9-10.1.2) . . . and the remainder of the real property described in said (lease) (Parcel A)."

9-10.1.4 Release of Mortgagee's or Beneficiary's (Deed of Trust) Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following:

> "Also, said (mortgagee/trustee) hereby releases from the effect of said (mortgage/deed of trust) all rights of ingress and egress (etc., as in Section 9-10.1.2) and the remainder of the real property described in said (mortgage/deed of trust)."

9-10.1.5 Access Reservation

If the access control is modified by any "Access Note" or other feature appearing on the approved plan, such feature is specified in the instrument of conveyance or release by adding to the "Access Control Clause" (see Section 9-10.1.2 et seq.) an "Access Reservation Clause" adapted from one of the following clauses.

> ***Note:*** The language of such clause in a partial release of lease, substitutes the words "said lessee" in place of the words "grantor" or "grantor herein." Likewise, the word "mortgagee" is substituted in a partial release of mortgage and the word "trustee" is substituted in a partial reconveyance of a deed of trust.

9-10.1.5.1 By Highway Connection

For access specifically permitted by way of a highway connecting with an access controlled facility:

". . . , EXCEPT that the (grantors, lessees, mortgagees, trustee(s) herein reserve(s) for (himself) (his heirs) (its) successors or assigns, the right of reasonable access to the "_____" Line connection of said Highway (_____erly of HES _____ + _____ said "_____" Line)." Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.

9-10.1.5.2 By Frontage Service Road

A. State to Construct — Now

". . . , EXCEPT that as a part of the consideration of this transaction, the state agrees to construct on the right of way a frontage service road along the (easterly) side of said highway, and to which frontage service road only, the grantors, their heirs, successors or assigns reserve a right of reasonable access." Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.

B. State to Construct — Future

". . . , EXCEPT that as a part of the consideration for this transaction, the state agrees to construct on its right of way at a future date, a FRONTAGE SERVICE ROAD along the (easterly) side of said highway, it being understood and agreed that the grantors herein, their heirs, successors and assigns reserve a temporary right of reasonable access . . ." Continue with B1 or B2 below as required.

1. Direct Access to Highway. ". . . directly to said highway until such time as said FRONTAGE SERVICE ROAD is actually constructed at which time all such temporary rights of direct access to the highway shall cease and the rights shall then be limited to the right of reasonable access to the FRONTAGE SERVICE ROAD." (Insert description of location and/or use restrictions of temporary direct access as appropriate.) Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.06 as appropriate.

2. Other Temporary Access. When temporary access other than via a direct route to the highway is to be provided, such as allowing temporary access only to a specific other public road that is available or can be made available, insert the details as to the type, location, and any restriction of the access as stated in the design specifications. Continue with the text in Sections 9-10.1.5.3.1, 9-10.1.5.3.2, or 9-10.6 as appropriate.

9-10.1.5.3 By Road Approach

A. Type "A" (Residential)

". . . , EXCEPT that the state shall construct on its right of way <u>a Type "A"</u> off and <u>on approach</u>, not to exceed <u>30</u> feet in width, for the sole purpose of serving a single family residence, on the easterly side, at or near Highway Engineer's Station (36+00), as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and <u>on approach</u> only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

B. Type "B" (Farm)

1. One Side

". . . , EXCEPT that the state shall construct on its right of way <u>a Type "B"</u> off and <u>on approach</u>, not to exceed <u>50</u> feet in width, for those uses necessary to the normal operation of a farm but not for retail marketing, on the (easterly) side, at or near

Highway Engineer's Station (36+00), as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach, only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

2. Each Side

". . . , EXCEPT that the state shall construct on its right of way a Type "B" off and on approach, not to exceed 50 feet in width for those uses necessary to the normal operation of a farm but not for retail marketing, on each side of said highway, at or near Highway Engineer's Station (36+20), as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approaches the grantors, their heirs, successors and assigns, reserve the right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

a. Multiple Approaches — Controlled Movement

Used if the grantor has reserved road approaches on each side and traffic may not cross or make left-turning movements at grade.

". . . The direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

b. Temporary Grade Crossing

Used if the grantor has reserved road approaches on each side without restriction on crossing or left-turning movements at grade.

". . . It is understood and agreed that the state may temporarily permit the crossing of said highway at grade and free turning movements from each of said approaches. However, whenever necessary in the opinion of the Department of Transportation, all grade crossings shall cease and terminate and the direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

C. Type "C" (Special Use)

Used only on the instrument with the parties who are to have the right of use of such approach.

1. State to Construct

". . . , EXCEPT that the state shall construct on its right of way a Type "C" off and on approach, not to exceed (_____) feet in width, for a gated approach to the grantors' well, on the (easterly) side, (northbound) only, at or near Highway Engineer's Station (_____), as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach only, the grantors, their heirs, successors, or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.7.

2. Owner to Construct

". . . , EXCEPT that the state agrees to permit the construction on its right of way of one Type "C" off and on approach to the remainder of said Parcel "A", not to exceed (_____) feet in width, for the uses necessary to the normal operation of a farm (or whatever use is specified by the highway plan), at a point

on the (easterly) side of said highway, between Highway Engineer's Station (_____) and Highway Engineer's Station (_____), to be mutually agreed upon by the undersigned grantors, their heirs, successors or assigns and the Department of Transportation; and to which off and on approach only, the grantors, their heirs, successors or assigns reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-10.1.5.3.1 and 9-10.1.5.3.2.

D. Type "D" (Commercial Single 50 Foot Width)

Used only where Modified Access Control has been established, and further subject to provisions of WAC 252-020-090.

". . . , EXCEPT that the state shall construct on its right of way a Type "D" off and on approach not to exceed 50 feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designed highway stations as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Section 9-10.1.5.3.1 and 9-10.7.

E. Type "E" (Commercial Double 30 Foot Width)

Note: This approach is to be utilized only with approval of the HQ Access and Hearing Engineer's office.

". . . , EXCEPT that the state shall construct on its right of way a separated off and on approach with each opening not exceeding 30' in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location and to which off and on approach only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Section 9-10.1.5.3.1 and 9-10.7.

9-10.1.5.3.1 Maintenance of Road Approach

". . . , which approach shall be maintained between the right of way line and the shoulder line of said (highway, frontage service road of said highway, highway and/or frontage service road, "_" Line of said highway) by the grantors, their heirs, successors or assigns."

9-10.1.5.3.2 Construction Costs and Permits — Owner to Construct Approach

"Obtaining required permits from responsible agencies and the complete construction (and maintenance) costs of said approach shall be the sole responsibility of the grantors, their heirs, successors or assigns."

9-10.1.5.4 By Highway Structure

Used when the approved *Right of Way Plan* contains an "Access Note" which permits access under or over the travelled way by use of a highway structure — adapt the text of the "Access Note":

". . . , EXCEPT that traffic movement will be permitted under the highway structures at the (insert name of bridge, etc.) between HES _____ + _____ and HES _____ _ + _____ as restricted clearances will permit." If appropriate, continue with the text in Sections 9-10.1.5.3.1 and 9-10.1.5.3.2.

9-10.2 Specific Details

Used in each instrument (principal and supportive) involving either a partial acquisition or a reference to a recorded right of way plan. May also be used on any instrument as a courtesy.

9-10.2.1 One Type of Acquisition

The cited language is used in instruments relating to conveyances of only one type; e.g., fee, easement, permit, lease, etc.

> "The lands herein described contain an area of (2.5 acres, square feet) more or less, the specific details concerning all of which are to be found in that certain map of definite location now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval (month, day, year), (revised) (month, day, year)."

9-10.2.2 Multiple Types of Acquisition

The cited language is used in instruments relating to conveyances of combinations of fee, easement, permit, etc.

> "The lands herein described in fee contain an area of (_____ acres, _____ square feet), more or less, and herein described in (easement, permit) contain an area of (_____ acres, _____ square feet) more or less, the specific details concerning all of which . . . (see Section 9-10.2.1) . . ."

9-10.3 Payment Authorization

Used in instruments wherein there are multiple signatories and such parties agree to the state making payment to one of their members.

9-10.3.1 By Grantors to One Grantor

"The undersigned grantors hereby authorize and instruct the state of Washington to pay the entire consideration to _____, and direct that the state voucher in payment thereof shall be executed only by said _____."

9-10.3.2 By Mortgagee to Mortgagor/Beneficiary to Grantor

Used on the (Partial Release of Mortgage/Request for Partial Reconveyance of Deed of Trust) to authorize payment to the grantor.

> "The undersigned herein consents to the payment of any consideration for the lands being herein released directly to the (mortgagor/grantor), his heirs, successors or assigns."

9-10.4 Improvement Straddling Right of Way Line

Used in each case in which improvements straddle the right of way line. All improvements within the acquisition area are automatically acquired with the land as "real property." Owners (or others) do not "retain" or purchase improvements to be removed or salvaged, but may purchase them as personal property by purchasing salvage rights. Salvage rights (sales of personalty) are transacted and documented in a separate *Fixtures and Improvements Agreement* (DOT Form 263-005).

> "It is understood and agreed that the improvement(s) located partially upon the lands herein conveyed and partially upon the grantor's remaining lands is (are) conveyed herein in its (their) entirety to the state of Washington, its agents or assigns." Continue with text in Section 9-10.7.

9-10.5 Timber (Crop) Removal

Use if timber (crops) are to be removed by the grantor:

> "The grantor herein reserves the right to remove (all hay, the sugar beet crop, all standing or down timber) located (insert Right of Way centerline or other legal description of the area where timber/crop removal is permitted) at any time until (insert exact date); however, all (timber, crops) yet remaining on said lands after said date shall become the property of the state of Washington and all rights of the grantor to said (timber, crops) shall then cease and terminate."

9-10.6 Road Approaches — Nonlimited Access

Access to nonlimited access state highways is managed under the provisions of RCW 47.50.

All new or altered road approaches must be documented by permit. Region Real Estate Services staff will assist in obtaining signatures on permits as requested. We will attempt to obtain signatures on all permits on any project even though there may not be an acquisition from that particular property owner. If any owner refuses to sign, the agent should so note on the permit, leave a copy with the owner, and return the original to the region. A copy of all Road Approach Permits must be included in your acquisition files.

A record of authorized road approaches will be maintained in the State Access and Hearings Engineers Office in Olympia. The information in this computer file will be input and updated in each region office responsible for issuing the permits.

Acquisition documents will not make reference to any road approach or access rights. All information about the approach type, location, maintenance, right of entry, etc., will be in the permit. Region Real Estate Services will coordinate closely with those issuing the permits to assure the appropriate language is included in each one.

If the owner requests any additional approaches, the agent should explain the procedure established in the statute and provide whatever help is appropriate for the owner to apply. If at all possible, any request for additional or modified access should be separated from our acquisition activities.

If the owner insists on a document assuring them the state will reconstruct any existing approach, we can provide a letter but the letter should not contain any reference to a type or location.

The construction memorandum regarding road approaches may still be prepared and provide to the Project Engineer. That decision will probably vary region to region. The memorandum does not have to be sent with your acquisition file. Remember that the Project Engineer's signature on this memo DOES NOT CONSTITUTE APPROVAL OF THE APPROACH but only agreement that it will be constructed as part of the project. This memorandum is intended for internal use and should not be given to the property owner.

9-10.7 Construction Item

If the instrument contains a clause requiring or potentially obligating the state to perform any nature of construction or labor on or adjacent to the grantor's remaining land, the following is inserted as part of said clause in the grantor's instrument only:

> "The grantor herein further grants to the state of Washington, or its agents, the right to enter upon the grantor's remaining lands where necessary to (construct said approach, remove said improvement, remove said crop, remove said timber, etc.)."

9-10.8 Occupancy Clauses

9-10.8.1 General

In the absence of agreement otherwise, occupancy of unimproved real property will occur upon payment being made available to the grantor(s). No clause is required.

9-10.8.2 Early Occupancy

If early occupancy is required, one of the following clauses will be used.

A. "The undersigned hereby agree(s) to surrender occupancy of the lands and/or rights herein conveyed, on the date of acceptance of this instrument by the state."

In rare instances it may be necessary to gain immediate occupancy. In those cases, the following may be used:

B. "The undersigned hereby agree(s) to surrender immediate occupancy of the lands and/or rights herein conveyed."

9-10.9 Reserved

9-10.10 Release of Damages

The following are examples of clauses which are to be inserted between the words:

> ". . . by reason of" and the words: "due to the . . . " on the *Release of Damages* (Form RES-315) to identify the specific damages for which the state of Washington is making a settlement.
>
> ***Note:*** Since these clauses are inserted in the middle of a sentence, the clauses do not require capitalization or final punctuation.

9-10.10.1 Fencing

The following clause releases the state from the obligation to erect and maintain fencing:

> ". . . its obligation to erect and maintain fencing along the right of way line contiguous to the hereinafter described property . . . "

9-10.10.2 Water Systems

The following clauses release the state from its obligations under a *Well Agreement* (Form RES-313):

> ". . . the loss of an existing water system and the construction of a replacement water system . . . "

Also insert the following clause before the Delivery Clause (see Section 9-12):

> "The owners of record of the herein above described lands, for themselves, their heirs, successors and assigns, hereby release the state of Washington from all responsibility and obligation imposed or implied by that certain Well Agreement _____, between the parties hereto, and hereby declare and acknowledge said Agreement to have been fulfilled and terminated."

9-10.11 Mineral Rights Reservation

Used in some instruments of conveyance to the state (deeds), and in some instruments releasing mineral rights.

> "It is understood and agreed that all mineral, coal, oil, ores and gases below the surface of the lands conveyed by this instrument and hereinbefore described, are hereby reserved unto the grantors, their successors and assigns; EXCEPT, however, that in the exploration, development, excavation, mining or removing of same, the surface of said lands shall not be occupied or used, the exercise of said rights shall not injure or damage in any manner the highway or highways to be built thereon, increase the cost of maintenance thereof, or interfere with the primary use of said lands and rights of way by the state of Washington, its successors or assigns for road, street, highway or other purposes, or franchises granted across, along, or beneath the surface of said highways, nor shall the grantors, their successors or assigns, do any exploration, development, excavation or mining beneath the surface of the lands hereinabove conveyed within a vertical depth of 500 feet below said surface until the said grantors, their successors or assigns have a plan for such exploration, development, excavation or mining approved by the Secretary of Transportation of the state of Washington, or his successors and assigns, determining that such plan will not be injurious to the primary use of the surface."

9-10.12 Slope Easement, Termination Of

Used to indicate the method of termination of a slope easement. This clause may be used only if the slope easement does not include reservation of sidewalk areas, utility rights of way, etc.

> "It is understood and agreed that, in the event the grantor, his heirs, or assigns, shall excavate and/or place an embankment upon the area covered by this slope easement to the level of the grade of the above-mentioned highway abutting thereon, all rights of the grantee herein shall cease and terminate."

9-10.13 Easement for Transfer

Used only when the easement is to be transferred to another party; e.g., a slope easement for a frontage service road which is to be relinquished to the county. "It being understood and agreed that, upon completion of construction, the easement rights granted herein are to be transferred to _____ by an appropriate instrument to be placed of record and that thereafter the rights of the state shall cease and terminate."

9-10.14 Reversion

Used only upon demand by major land owners maintaining substantial real property holdings that traditionally have conveyed only easements, provided that the acquisition compensation reflects the reversion right, and only with prior approval of DRES.

9-10.14.1 Reversion Clause

Upon abandonment of the lands conveyed herein, all of the state's right, title and interest in and to said lands shall revert to the grantors, their heirs, successors, or assigns; subject to any permits or franchises for public or private utilities.

9-10.15 Right of First Refusal

Used only upon demand by grantor(s) with prior approval of the DRES.

9-10.15.1 First Refusal Clause

Upon determination by WSDOT that all or any portion of the lands herein conveyed are surplus to the needs of the state the grantor(s), __(his, her, their)__ heirs, successors, or assigns shall be offered the first right to acquire said land at its then appraised value.

9-10.16 Donation Clause

(My/Our) donation of (parcel number or property description) to the State of Washington is made voluntary and with full knowledge of (my/our) entitlement to receive just compensation therefore. (I/We) hereby waive the State of Washington from obtaining an appraisal of the acquired property.

9-11 Reserved

9-12 Delivery Clause

The following delivery clause is entered in each instrument that is to be accepted and approved, just above the Instrument Date and the Signatures:

"It is understood and agreed that the delivery of this (deed, etc.) is hereby tendered and that the terms and obligations hereof shall not become binding upon the state of Washington unless and until accepted and approved hereon in writing for the state of Washington, Department of Transportation, by the Director, Real Estate Services."

9-13 Instrument Date

The Instrument Date is normally the date the instrument is signed by the (first) grantor(s). The following text appears above the grantor(s) signature(s): Dated this _____ day of _____."

9-14 Execution

9-14.1 General

A. Each person appearing as or representing the grantor is requested to sign the instrument in his own hand, spelling out his name(s) and/or initial(s), as applicable, exactly as the name appears of record. The desired form or appearance for the signature is predetermined and is typewritten under the appropriate signature line before offering the instrument to the signatory for execution.

B. The act of signing may be done before the qualified officer who is to certify an acknowledgment (see Section 9-15). The act of signing may be done elsewhere, but each person signing an instrument must personally appear before said qualified officer and acknowledge his own signature.

C. Additional pages are appended (see Section 9-1.2.2.1B) or the custom instrument is continued (see Section 9-1.2.2.2) if necessary to provide space for all signatories.

9-14.2 Individuals

9-14.2.1 Personally

Where individuals are executing for themselves, the interest held or the relationships between such signatories is not stated at the signature blank.

9-14.2.2 Signature by Mark

A witness to a signature is desirable in the case of a sane person who, due to illiteracy, old age, or incapacitating illness, can sign only by using a mark. There is no legal requirement that a signature by mark be witnessed, but the use of witnesses offers great protection to the state

because of the agency relationship of the Acquisition Agent, who frequently also acts as the Notary Public.

A. The signatory makes his mark before two witnesses, assisted if necessary by steadying the hand and pen in position. A witness must be capable of signing his own name.

B. Any friends, relatives, doctors, nurses, business acquaintances, or other competent persons who know the signatory using his mark may act as witnesses. The Acquistion Agent or other parties in interest may not act as witnesses. Every effort should be made to provide witnesses to a signature by mark, or, in the alternative, to secure the services of a Notary Public who is not an employee of the state.

C. A signatory who is not literate in the English language should have his signature witnessed and at least one of the witnesses should be able to act as an interpreter, unless the agent is himself literate in the language of the signatory.

D. The witnesses sign the instrument as "witness" using a format similar to that in Figure 9-14.2.2.

S/ _____ His _____ Mark _____
Richard Roe, Witness John Doe

S/ _____
Jack Smith, Witness

Signature by Mark With Witnesses (Example)
Figure 9-14.2.2

9-14.2.3 Fiduciary

A person executing an instrument in the place of or on behalf of the party in interest does so, identifying his official and/or legal capacity at the signature blank on the instrument (see Figure 9-14.2.3). The language for identifying the signatory agrees with the language of the party clause.

Execution Only as a Fiduciary	**Execution, Individually *and* as a Fiduciary**
S/ John Doe (written by the attorney in fact) By: _____ Jane Doe, as his attorney in fact	_____ Jane Doe S/ John Doe (written by the attorney in fact) By: _____ Jane Doe, as his attorney in fact
_____ Richard Roe, as trustee under the will of Joe Doe, deceased	_____ Richard Roe _____ Richard Roe, as trustee under the will of John Doe, deceased
_____ Richard Roe, as trustee for John Doe	_____ Richard Roe _____ Richard Roe, as trustee for John Doe
_____ Richard Roe, as (Executor/Personal Representative) for the estate of John Doe, deceased	_____ Richard Roe _____ Richard Roe, as (Executor/Personal Representative) for the estate of John Doe, deceased
_____ Jane Doe, as guardian of the estate of John Doe Jr., a minor	_____ Jane Doe _____ Jane Doe, as guardian of the estate of John Doe, Jr., a minor

Execution By Fiduciaries (Example)
Figure 9-14.2.3

9-14.3 Corporations

9-14.3.1 Private Corporations

Ordinarily, the corporation's president and secretary are the officers who can execute conveyances for the corporation. Their names and titles are typed beneath their signatures (see Figure 9-14.3.1). An instrument from a private corporation may be accompanied by a resolution under certain conditions.

ABLE BAKER CHARLIE COMPANY, INC.

By: _____
John J. Doe, President

By: _____
J. Paul Smith Jr., Secretary

Corporate Signature Block (Example)
Figure 9-14.3.1

9-14.3.2 Corporate Seal

Although it is not necessary to impress a corporate seal on an instrument, private corporations (that have seals) and governmental agencies may elect to do so.

9-14.3.3 Local Public Bodies

Examples of signature blocks for local public bodies are given in Figure 9-14.3.3. An instrument from a local public body is accompanied by a Resolution.

9-14.4 Partnerships

A. If the PC shows title held in name of firm, which proves to be a partnership, modify corporate form (Figure 9-14.3.1) to show firm name and identity of signers as "Partner" if a general partner, or "Limited Partner" if such is the provable fact.

B. If the PC shows title held by individuals, take signatures as prescribed in Section 9-14.1.

Counties*

1. Commissioner System: _____ County

(SEAL)

_____
John J. Doe, Chairman

_____
Mary E. Smith, Commissioner

Attest: _____
County Auditor and Clerk of the
Board of County Commissioners

_____
James J. Jones, Jr., Commissioner

2. Executive — Council System:

(SEAL) _____ County

Attest: _____ _____
Director of Records and Elections John J. Doe, County Executive

---

Cities*

1. Mayor — Council (Commissioner) System: City of _____

(SEAL)

_____
John J. Doe, Mayor

_____
Mary E. Smith, Councilman (Commissioner)

Attest: _____ _____
City Clerk Paul P. Peters, Councilman (Commissioner)

2. Manager — Council System: City of _____

(SEAL)

Attest: _____ _____
City Clerk John J. Doe, City Manager

Other Political Subdivisions*

Example: A School District: Board of Directors of _____
School District No. _____

_____
John J. Doe, Chairman

Attest: _____
Clerk of the Board of Directors
of School District No. _____ of
_____ County, Washington

Mary E. Smith,

_____
James J. Jones, Jr.

Signature Blocks for Local Public Bodies (Examples)
Figure 9-14.3.3

9-15 Acknowledgment

9-15.1 General

A. To render an instrument recordable and to permit its entry as evidence in a court of law without witnesses, a person signing an instrument must acknowledge before a qualified officer that the signature on the instrument is his signature and that he signed the instrument as his free and voluntary act and deed. The signature of the Governor of the state of Washington requires an attest by the Secretary of State.

B. If the custom instrument (see Section 9-1.2.2.2) is continued, pages are appended as necessary (see Section 9-1.2.2.1B) to provide an acknowledgment for all signatories.

C. A witness is not a party in interest and his signature is not acknowledged.

D. A single acknowledgment may be used by the official for all interested parties who acknowledge their signature on an instrument on the same date, provided that the same acknowledgment language is otherwise applicable.

9-15.2 Rules

A. A person acknowledging that a signature is his own, must appear before the qualified officer certifying to the fact and must be known by that officer, but the actual signing need not be in the presence of the certifying officer.

B. The date of the acknowledgment must be the same as or later than the date of the instrument.

C. The acknowledgment must state that the person who signed an instrument did so as his free and voluntary act and deed.

D. The acknowledgment for a corporate grantor must state that the officers of the corporation who signed an instrument were authorized to do so and that the seal, if affixed to the instrument, is the corporate seal of the corporation.

E. The qualified officer taking an acknowledgment must derive no personal profit as a result of the execution of the instrument.

F. The acknowledgment must be taken within the territorial jurisdiction of the qualified officer.

G. The acknowledgment must recite that a person acting in a fiduciary capacity is so doing.

H. The acknowledgment of an attorney in fact must state that his principal is alive and sane and that the instrument was executed in behalf of said principal.

I. If the qualified officer taking an acknowledgment is required to have a seal, said seal must not have expired and must be affixed to the acknowledgment. If the qualified officer taking an acknowledgment does not have a seal, a certificate of authority must by attached to the acknowledgment, except that no certificate of authority is required of officers of the U.S. Armed Forces or the U.S. Merchant Marine (see Sections 9-15.2K9 and 9-15.2K10).

J. The signature of the grantor must be in the same form as it appears within the party clause and within the acknowledgment, unless it is a signature by mark.

K. Officers qualified to take acknowledgments within the geographic area of their respective jurisdictions are as follows:

1. A United States District Court Commissioner.
2. A Judge, Clerk, or Deputy Clerk of the Supreme Court of the state of Washington.

3. A Judge, Court Commissioner, Clerk, or Deputy Clerk of a County Superior Court or a County Auditor or a Deputy County Auditor.
4. A Notary Public in and for the state of Washington (see Section 3-9).
5. Any person authorized to take acknowledgments according to the laws of any state other than the state of Washington, or of any territory, district, or possession of the United States wherein the acknowledgment is taken.
6. A Notary Public, Judge, Clerk, or other proper officer of any court of a foreign country.
7. The Mayor or other chief magistrate of any city, town, or municipal corporation in a foreign country.
8. In a foreign country, any minister plenipotentiary, secretary of a legation, charge d'affairs, consul, vice-consul, consular agent or commercial agent appointed by the United States Government.
9. Any officer of the United States Armed Forces having a rank equivalent to Second Lieutenant, or higher. An officer of the armed forces can take the acknowledgment only of a member of the armed forces. If the spouse of a member of the armed forces is a civilian, the acknowledgment of the signature of said spouse is taken by any other qualified officer.
10. The Master or First Officer of a vessel of the United States Merchant Marine, only of a member of the U.S. Merchant Marine. The signature of a civilian spouse is handled as described in Section 9-15.2K9.

L. Whenever an instrument is sent out of state for signature and acknowledgment, the proper acknowledgment form is attached, and the transmittal letter instructs the parties in interest that acknowledgment form must be used.

9-15.3 Format Examples

Refer to Figure 9-15.3 for examples of acknowledgment formats.

Individual Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____ before me personally appeared _____ to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that ___(he, she, they)___ signed and sealed the same as ___(his, her, their)___ free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Corporate Form

Delete parenthetical statement if no corporate seal or if same is not affixed.

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____ before me personally appeared _____ to me known to be the ___(President, Secretary, Treasurer)___ of the corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that ___(they are)___ authorized to execute said instrument (and that the seal affixed is the corporate seal of said corporation.)

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Samples of Acknowledgment Formats (Page 1 of 6 Pages)
Figure 9-15.3

Attorney in Fact Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____ before me personally appeared ___(name of attorney in fact)___ to me known to be the individual who executed the foregoing instrument as attorney in fact of ___(name of principal)___ therein described, and acknowledge to me that ___(he, she)___ signed and sealed the said instrument as such attorney in fact for said principal, freely and voluntarily, and for the uses and purposes therein mentioned, and on oath stated that the power of attorney authorizing the execution of this instrument has not been revoked and that the said ___(principal)___ is now living and sane.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Self and Attorney in Fact Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____ before me personally appeared ___(name of attorney in fact)___ to me known to be the individual in and who executed the foregoing instrument for ___(him, her)___ self and as attorney in fact of ___(name of principal)___ also therein described, and acknowledged to me that ___(he, she)___ signed the same as ___(his, her)___ voluntary act and deed and as the free and voluntary act and deed of the said ___(principal)___ for the uses and purposes therein mentioned, and on oath stated that the power of attorney authorizing the execution of this instrument has not been revoked and the said ___(principal)___ is now living and sane.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Samples of Acknowledgment Formats (Page 2 of 6 Pages)
Figure 9-15.3

Self and Guardian, Executor or Administrator Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____ before me personally appeared _____ _____ individually, and as (guardian, executor, administrator, etc.) of the estate of _____ _____, (incompetent, minor, insane, deceased, etc.), to me known to be the individual in and who executed the foregoing instrument, and acknowledged to me that ___(he, she)___ signed and sealed the same as ___(his, her)___ free and voluntary act and in the capacity and for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Mayor and City Commissioners Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____before me personally appeared _____ _____ to me known to be the duly elected and qualified Mayor and City Commissioner of the City of _____, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said City, for the uses and purposes therein mentioned, and each on oath stated that he (she) was authorized to execute said instrument by resolution of the Mayor and City Commissioners of said City, and that the seal affixed is the official seal of said City.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Samples of Acknowledgment Formats (Page 3 of 6 Pages)
Figure 9-15.3

County Commissioners Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____before me personally appeared _____ _____ each one to me known to be one of the duly elected, qualified and acting County Commissioners of _____ County, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said County, for the uses and purposes therein mentioned, and each on oath stated that he (she) was authorized to execute said instrument by resolution of the Board of County Commissioners of said County, and that the seal affixed is the official seal of said County.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

School District Form

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____before me personally appeared _____ _____ and _____ to me known to be the duly executed qualified and acting (President and Secretary) (if a first class district)* (Chairman and Clerk) (if a second or third class district)* of the Board of Directors of School District No. ____ of _____ ____ County, Washington, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said School District for the uses and purposes therein mentioned and each on oath stated that he was authorized to execute said instrument by resolution of the Board of Directors of said School District and that the seal affixed is the official seal of said School District.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

*Omit from test on preparation.

Samples of Acknowledgment Formats (Page 4 of 6 Pages)
Figure 9-15.3

Signature by Mark Form*
(Alter to suit gender)

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____before me personally appeared _____ _____ _____(Jane Doe, John Doe)_____ with two witnesses, (she, he) to me known to be the individual described in and who execute the within and foregoing instrument by affixing "X", (her, his) mark, thereto in the presence of the aforesaid two witnesses, and at such time, (she, he) acknowledged that (she, he) signed by affixing (her, his) mark, "X", as (her, his) free and voluntary act and deed for the uses and purposes therein mentioned. Whereupon the two aforesaid witnesses subscribed their names in my presence as witnesses to the mark of the said _____(Jane Doe, John Doe)_____.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

*Use individual acknowledgement form if no witnesses used (see Section 9-14.2.2B)

Partnership Form*

STATE OF WASHINGTON)
: ss
County of _____)

On this _____ day of _____before me personally appeared _____ _____ each one known to me to be a General Partner of the firm known as _____ _____ that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said firm, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

*If the PC shows title held by individuals, take acknowledgement as for individuals.

Samples of Acknowledgment Formats (Page 5 of 6 Pages)
Figure 9-15.3

Trustee Form*

STATE OF WASHINGTON ____)
_____ : ss
County of _____)

On this _____ day of _____20_____,before me personally appeared _____, as Trustee(s) of the _____Trust, to me known to be the individual(s) described in and who executed the foregoing instument, and acknowledge that (he,she) signed the same as (his,her) free and voluntary act and in the capacity and for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Limited Liability Company Form*

STATE OF WASHINGTON ____)
_____ : ss
County of _____)

On this _____ day of _____20_____,before me personally appeared _____ _____ and _____ to me known to be the of L.L.C., a Washington Limited Liability Company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that are authorized to execute said instrument.

(SEAL)

_____
Notary Public in and for the State of
Washington, residing at _____

My commission expires _____

Samples of Acknowledgment Formats (Page 6 of 6 Pages)
Figure 9-15.3

9-16 Recording Block

A. In the space below the word "From" or the word "Between," insert the name of the first grantor as it is shown in the party clause of the instrument. If the grantor's spouse joins in the instrument, add "et ux." or "et vir." as appropriate. If the grantor is one of number of grantors, add "et al." In the blank below the word "In," insert the appropriate county.

B. At the bottom of the block the Project Title used in the heading of the instrument (see Section 9-5) is entered, followed by the Parcel Number.

C. The rectangular space between the above two mentioned entries is reserved for the County Auditor to enter the recording date and other recording information.

D. The left-hand margin of the instrument, adjacent to the top line of the recording block, is reserved for the entry of the headquarters permanent instrument file reference numbers.

9-17 Attachments/Corollary Documents

9-17.1 General

A. Items which may be appended to an instrument are referenced within the body of such instrument. As an appendage, the item is given and referenced to by an "EXHIBIT" identification letter.

B. A document such as an affidavit may be required to answer questions of grantors' identity, status, interest, etc. Such a document is seldom appended to the principal instrument but is, instead, a corollary document and is not referenced in the instrument.

9-17.2 Rules

A. Attachments to an instrument are verbally bound to such instrument by appropriate language within the instrument at the point the attachment is first mentioned (see Section 9-17.4).

B. Attachments to an instrument are marked EXHIBIT "A," EXHIBIT "B," etc., in the order in which reference is made to each in the instrument.

C. There is no relationship required between the identifying letter of an exhibit and other identifications within the instrument, e.g., Parcel "A" does not need to be EXHIBIT "A" (if the length of the Parcel A description requires attachment as an exhibit) but it does help eliminate confusion.

D. The word "EXHIBIT" followed by its sequential exhibit identification letter ("A," "B," etc.,) is inserted in the lower right-hand corner of each page of each exhibit above the Parcel Number.

E. Any document, though it may have a bearing on an instrument, is a corollary document unless made an attachment (EXHIBIT) as specified in A, above.

F. All attachments (appendages, exhibits, etc.) to an instrument are prepared and attached prior to execution of the instrument.

9-17.3 Affidavit

A. Whether used as an attachment or as a corollary document, an affidavit has one general form as shown in Figure 9-17.3.

B. An affiant is an individual person (not a corporation) who, under potential penalty of perjury, elects to swear and affirm to any fact or facts or combinations thereof.

Affidavit

STATE OF WASHINGTON)
: ss
County of _____)

_____, being first duly sworn on oath deposes and says:

(E.g., "That (he, she) was a single (man, woman) on ___(date)___, date of acquiring title to the property conveyed by that deed recorded ___(date)___ under Auditor's File No. _____ _____, and has remained a single (man, woman) at all times since.")

(affidavit)

Subscribed and sworn to before me this _____ day of _____.

_____
Notary Public in and for the State of Washington, residing at _____

My commission expires _____

Affidavit (Sample)
Figure 9-17.3

9-17.4 Exhibits

9-17.4.1 Parcel Descriptions

A. The legal description is an acceptable attachment in accordance with Section 9-9.13.

B. The exhibit is verbally bound to the instrument by inserting (in the instrument at the location at which the parcel description would otherwise appear) language such as the following: "See EXHIBIT "A" attached hereto and by this reference made a part hereof."

9-17.4.2 Exhibit Maps

A. State *Right of Way* or *Sundry Site* plans are acceptable.

B. Reduced copies of the right of way map sheets are acceptable, provided the map details are not made illegible by the reduction and/or reproduction. Exhibits must meet the state recording statute.

C. Each map sheet reproduction is identified above the title block by the "EXHIBIT" identification letter given to it within the instrument. The map sheet numbering, even though some of the map sheets may not be used, is sufficient for page numbering of a multiple-page exhibit.

D. The exhibit maps are prepared by showing the areas to be conveyed as hachured.

E. If more than one type of interest is to be conveyed, the exhibit maps are color-coded using the following color codes:

1. The areas to be conveyed in fee simple are shaded red.
2. The areas to be conveyed as easements are shaded blue.
3. The areas covered by permits are shaded green.

F. The uses to which an easement or permit are to be put, limited access hachures and other essential details, including a legend, are on each right of way map sheet and do not require special coloring.

G. In place of the acquisition description on the face of the instrument, the exhibit is verbally bound to such instrument by use of language selected and adapted from the following:

1. ". . . That area hachured on EXHIBIT 'A' attached hereto and by this reference made a part hereof."
2. ". . . That area conveyed in fee simple herein shaded in red color, that area conveyed as an easement herein shaded in blue color and that area granted as a permit herein shaded in green color on EXHIBIT 'A' attached hereto and by this reference made a part hereof."

9-17.5 Resolutions

An instrument from a governmental agency or corporation (in some cases) is accompanied by a Resolution which authorizes execution of the instrument (see Sections 6-5.1.1A3 and 6-5.1.1B).

9-18 Acceptance and Approval

A. After completion of review and verification that the title and/or interest required by the state is adequately described and suitably clear to the state, the Secretary of Transportation (or his designee) dates and executes each instrument which is contingent upon such acceptance and approval.

B. Instruments not contingent upon acceptance and approval by the Secretary are any instrument or document which:

1. Does not directly or indirectly commit the state to a monetary or other financial obligation.
2. Does not encumber property under the ownership or control of the state.
3. Will become binding upon the state only upon the acceptance and approval of another instrument.

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10-1 General

10-1.1 Real Property Vouchers

The *Real Property Voucher* (DOT Form 262-039) is a legal document upon which an authorized claimant presents for payment itemized charges against the state. It is unlawful for the state to issue a warrant except upon a voucher (RCW 43.88.160). Examples of completed *Real Property Vouchers* are given in Appendix 10-1.

10-1.2 Invoice Vouchers

The *Invoice Voucher* (DOT Form 134-139) is used to present for payment itemized charges against the state for goods or services, not otherwise invoiced, such as reimbursement to employee for purchase price paid from personal funds for books for state use. An example of a completed *Invoice Voucher* is given in Appendix 10-3.

10-1.3 Relocation Assistance Vouchers

The *Relocation Assistance Voucher* (DOT Form 264-009) is used to pay all claims determined to be eligible under the Relocation Assistance Program. Types of payment include replacement housing entitlements, moving cost reimbursement, and direct payments to moving companies and other vendors/contractors.

10-1.4 TRAINS

In addition to the three (3) above mentioned vouchers, another form is needed to enable Real Estate Services to pay claimants and that is Payment Voucher (DOT Form 134-003), which is also referred to as Trains Voucher. See *TRAINS* (**T**ransportation **R**eporting and **A**ccounting **I**nformation **S**ystem) *Users Manual* for information.

10-1.5 Information Required by the Internal Revenue Service (IRS)

All vouchers require the Federal Tax Identification Number (TIN) or a Social Security Number (SSN).

10-1.5.1 Procedures to Obtain W-9

A. The acquisition agent should include a W-9 form in the package delivered to the property owner at the time the offer to purchase is made. This will provide the property owner adequate time to read over the instructions and complete the form.

   1. The offer letter includes appropriate W-9 language.
   2. If relocation is involved, a copy of the W-9 form should be provided to relocation once the form is obtained from the payee.

B. The relocation agent should include a W-9 form at the time the agent delivers the Notice of Eligibility, Entitlements, and 90-Day Assurance letter to the displaced person.

   1. The Notice of Eligibility, Entitlements, and 90-Day Assurance letter includes appropriate W-9 language.
   2. If a property owner is also a displaced person, the agent should ask the displaced person if they have already completed a W-9 for the acquisition agent.

C. Acquisition and Relocation will need to coordinate efforts so we do not ask the same payee to complete a W-9 form more than once. In most cases, the acquisition agent will obtain the W-9 form as part of the transmittal package and provide a copy to relocation.

1. A W-9 only need to be obtained once unless the Accounting Office otherwise notifies Real Estate Services. If there is a question as to whether or not our agency has a W-9 on file, the agent should contact the TRAINS Helpdesk directly at 705-7514.

D. An agent should not provide guidance on how to complete the W-9 form. The payee should be referred to the IRS, their accountant, or legal consultant for advise on how to complete the form.

E. If the payee refuses to complete a W-9 form, the agent should document the refusal in their diary. The payee must still supply a TIN or SSN in order to have the voucher processed for payment.

10-1.5.2 Payment Processing

Each payment voucher sent to HQ for payment processing will need to be accompanied by a W-9 form completed by the payee or a diary entry that WSDOT already has a a W-9 on file for this payee. In the event a payee refuses to complete a W-9, WSDOT must still obtain a TIN or SSN in order to get the voucher processed. The TIN or SSN provided must match what is registered with the IRS before the payment process can be completed.

10-2 Real Property Vouchers

10-2.1 Rules

A. The *Real Property Voucher* (DOT Form 262-039) is typewritten and is available in electronic form. No erasures, strike-overs, or corrections are permitted in any figure in the "Amount" column.

B. No changes or deletions are permitted in the claimant's certificate which is in the upper right-hand corner of the voucher.

C. All items appearing on the voucher are documented. The just compensation for lands, improvements, damages, special benefits, etc., is supported by the *Determination of Value* (Form RES-214). All other items are supported by bills, receipts, letters of approval, etc.

D. Every transaction that is transmitted to Headquarters involving a payment of money by the state requires an original *Real Property Voucher*.

1. The "principal" *Real Property Voucher* is a summation of the entire transaction and includes, as applicable:

a. All items contributing to just compensation:

(l) Lands (in fee, easement, etc.) and access rights.

(2) Improvements.

(3) Damages.

(4) Less special benefits.

b. Legal/Administrative — an itemized list (e.g., statutory evaluation allowance, administrative settlement, etc.).

c. Other Items — an itemized list (e.g., escrow fee, partial reconveyance fee, etc.).

d. Deductions — an itemized list (e.g., real estate taxes, assessments, performance bond, salvage value, construction items, etc.).

2. There may be one or more "secondary" *Real Property Vouchers*.

   a. A "secondary" voucher is prepared to order payment of any sum which has been deducted from the "principal" voucher, such as:

      (l) For payment of the grantor's obligation to another party (e.g., real estate taxes).

      (2) For the direct payment of a (deducted) cost to cure item.

   b. A "secondary" voucher is prepared to order payment of an item which is not part of the "principal" voucher (e.g., the trustee's ministerial fee).

      Note: The seller's incidental expenses are shown in the "Other Items" section of the "principal" voucher when the recipients thereof join with the grantor(s) on that voucher, or are to receive any payment due through an escrow distribution.

3. If a grantor is unable to accept any particular voucher language, the Region Real Estate Services Manager (Region RESM) contacts the Assistant Director of the Title and Condemnation Program for instructions.

10-2.2 Procedures

10-2.2.1 Preparation

Following the examples given in Appendix 10-1, the Acquisition Agent prepares all necessary *Real Property Vouchers* in accordance with Section 10-2.1 as follows:

A. GRANTOR OR CLAIMANT Block: Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the escrow agent's name and address are inserted.

   In addition, insert the TIN or SSN of the firm or individual responsible for income tax and WSDOT Accounting will report to the USA Internal Revenue Service.

B. SIGNATURE Block (located in upper right-hand corner):

   1. If the signatories are individuals, their names may be typed beneath the line upon which they are to sign, if desired. Since the voucher is tied to an instrument (e.g., deed, easement, release), the number of payees and signatories can be limited by use of the appropriate "Payment Authorization" clause (see Chapter 9) in the instrument. If there is insufficient room in the signature block for all the required signatories, insert the words "See attached signature page" here, and have the signatories sign on a separate signature page. Attach copies (carbon or machine) of the signature page to each copy of the voucher.

      Obtain SSN and W-9 from all parties signing voucher.

   2. If the signatory is a corporation, the corporation's name and the titles of the officers signing for the corporation are typewritten in the signature block. The corporate officers then sign above their respective titles.

      Obtain TIN and W-9 from corporation(s) signing voucher.

C. PROJECT NUMBER AND TITLE: The official project number and project title as shown on the approved right of way plan are inserted. The project number is identical to the applicable Real Estate Information System (REIS) Project Number.

D. FEDERAL AID NO.: The federal aid project number is inserted.

E. PARCEL NO.: The parcel number(s) for the subject property is/are inserted.

F. Instrument Reference: The type of instrument (e.g., warranty deed) that requires the payment of a consideration, and the date of the grantor's execution thereof are inserted.

G. Items Contributing to Just Compensation: All items contributing to the just compensation are inserted as follows (but see H3 below with regard to court or jury awards):

1. LANDS CONVEYED: Insert the area (in acres or square feet) of all lands conveyed in fee, easement, etc., showing each area separately. Check that these areas conform with the areas shown on the DV and with those shown on the latest revision of the approved right of way plan. If access rights are included, see Section 10-2.3.3.

2. IMPROVEMENTS CONVEYED: All improvements acquired by the transaction are listed together with their total value as shown in the DV.

   Note: All improvements and their value are listed here. If the grantor is obtaining salvage rights on any of the improvements, see Section 10-2.2.l J 3.

3. FOR ALL REMAINDERS CONVEYED: Any lands acquired that are in excess to required lands are listed using the value as shown on the DV.

4. FOR ALL DAMAGES: Normally damages are not to be described to any extent greater than they are described in the DV. If the voucher is for some special damage, the type of damage is inserted (e.g., "for loss of ground water source").

5. LESS SPECIAL BENEFITS: If the DV identifies any special benefits, and:

   a. If the owners elect to accept the WSDOT's offer, the amount of the special benefits is inserted. This amount is subtracted from the amounts specified in the DV for lands, improvements, and damages.

   b. If the owners elect to accept the WSDOT's offer of fair market value for the acquisition portion plus damages, if any, to the remainder, but defer the offsetting of the special benefits by entering into a lien, the parenthetical phrase "(lien option exercised)" is entered immediately following the words "Less Special Benefits"; the amount of special benefits is inserted as in "a," above; and the deduction negated and the lien noted in the Legal/Administrative section. See H4, below.

H. LEGAL/ADMINISTRATIVE: Insert an itemized list and the amounts paid in excess of the just compensation. The following are examples:

1. Statutory Evaluation Allowance: The total of all receipts or statements submitted which cover evaluation services (to a maximum of $750.00 regardless of number of parcels) is inserted. If there is no claim, insert the word "None," and if the grantor is not a signatory to the voucher, have him initial this item. If negotiations are conducted by correspondence, insert the words "to be separately vouchered, if any" on the "principal" voucher. In this situation, a "secondary" voucher is prepared and executed by correspondence if there is a statutory evaluation allowance claimed.

2. Administrative/Stipulated Settlement: If an administrative or stipulated settlement has been approved (see Chapter 6), insert the words "Administrative Settlement" or "Stipulated Settlement" and the amount thereof (i.e., the amount over and above the DV).

3. Court/Jury Award: Insert the words "Court Award" or "Jury Award," as appropriate, and the amount thereof. No detail of the award is shown. The trial attorney's certificate must accompany the voucher.

4. If the owners have entered into a lien to defer the offsetting of special benefits (G5b, above), insert the clause given in Section 10-2.3.13 and insert the amount of special benefits in the "Amount" column (thereby negating the deduction).

I. OTHER ITEMS: An itemized list is inserted in this section. These include, but are not limited to, the following:

1. ESCROW FEE AND SALES TAX: If the transaction is to be closed in escrow, insert the escrow fee and the sales tax in the blanks provided.
2. Other Closing Costs: Insert description and amounts. Invoices or other substantiating data are required for all fees except the trustee's ministerial fee and the escrow fee.

J. DEDUCTIONS: An itemized list of all deductions is inserted in this section. The amount of each deduction is preceded with a minus sign in the "Amount" column. Deductions include, but are not limited to, the following:

1. Real Estate Taxes: Insert years, tax lot numbers, and amounts.
2. Assessments: Insert identification and amount.
3. Salvage Value: If the grantor is obtaining the salvage rights, insert the clause shown in Section 10-2.3.10 and the amount shown for these rights on the *Fixtures and Improvements Agreement* (DOT Form 263-005).
4. Performance Bond A-592: Insert the clause shown in Section 10-2.3.11A and the amount (on the line identified as "Performance Bond A-592") as shown on the *Fixtures and Improvements Agreement*.
5. Trades/Exchanges: Insert the clause shown in Section 10-2.3.8 and the amount shown in either the DV or the *Surplus Property Report*.

10-2.2.2 Signature

The acquisition agent:

A. Obtains the signature of the appropriate grantors or claimants in the signature block (see Section 9-14), including TIN or SSN.

B. <u>Obtains a completed and signed W-9 from the payee in accordance with section 10-1.5.</u>

C Assures that the date of signing is inserted in the space provided.

D. Signs and dates the voucher in the space provided.

E. Gives a copy of the voucher to the grantor or claimant; includes the original and all other copies of the voucher <u>along with original W-9 or a copy of a diary entry</u> with the acquisition transmittal (original to Headquarters) for approval and distribution (within the region).

10-2.2.3 Approval

A. The Region RESM inserts the tabulation of data which identifies the breakdown of funds into federal participating and nonparticipating. If more than one parcel number is entered, a segregation between each parcel number must also be made in the following cases:

1. When the acquisition straddles control section termini.
2. When the acquisition lies in more than one federal aid project.
3. When one or more of the parcels (but not all) acquired in a single acquisition involves the acquisition of excess right of way or an uneconomic remnant.

B. The Region Accountant takes required actions, although some region accounting offices will not require processing through their offices.

C. The remainder of the approval is conducted as a part of the Headquarters processing.

10-2.3 Clauses

The acquisition agent inserts the following clauses in the Voucher as needed:

10-2.3.1 Land Only

After "Lands conveyed," insert: "approx. _____ (acres or square feet) in fee." If appropriate, continue with: "approx. (acres or square feet) in easement," etc.

10-2.3.2 Access Rights Only

Cross out the words "Lands Conveyed" and insert: "For All Access Rights."

10-2.3.3 Land and Access Rights

Following the text in Section 10-2.3.1, continue with: "and for all access rights," following the lands conveyed in fee, if any.

10-2.3.4 Improvements

After "Improvement Conveyed," insert a list of the improvements as given in the *DV* (Form RES-214); e.g., "Dwelling, garage, out buildings," etc.

10-2.3.5 All Remainders Conveyed

"Approx. _____ (acres or square feet) and/or improvement (describe improvement)" as given in the *DV* (Form RES-214).

10-2.3.6 Damages

Damages are handled as specified in Section 10-2.2.1G4.

10-2.3.7 Timber and Crops

If the grantor is not permitted to remove timber or crops, insert the following text under "Legal/Administrative": "For loss of (all standing or down timber, crops)."

10-2.3.8 Trades/Exchanges

If the transaction involves a trade or exchange, insert the following text under "Deductions": "The state agrees to convey (when the new facility is opened to traffic) that certain tract of land identified as Parcel/Inventory Control No. as fully set forth in the Exchange Agreement dated _____." Enter value in the amount column.

Note: If both parcel and inventory control numbers are available, insert both.

10-2.3.9 Administrative Settlement

Under "Legal/Administrative," insert: "Administrative Settlement."

10-2.3.10 Salvage of Improvements

Under "Deductions," insert: "Value of Grantor-Acquired Salvage of Improvements (from DOT Form 263-003)."

10-2.3.11 Performance Bond

On the "principal" voucher, insert on the line "Performance Bond A-592" the following text "performance bond for above salvaged item(s)" and the amount (from DOT Form 263-005). ***Note:*** No Secondary Voucher is needed.

10-2.3.12 Special Benefits, Lien For

If the owners enter into a lien to defer the offsetting of the special benefits, under "Legal/ Administrative" insert "$_____ in special benefits subject of $_____ Lien dated _____."

10-3 Reserved

10-4 Invoice Vouchers

10-4.1 Rules

A. The *Invoice Voucher* (DOT Form 134-139) is typewritten and is available in electronic form. No erasures, strikeovers, or corrections are permitted in any amount to be charged against the state.

B. Since the *Invoice Voucher* contains the "Vendor's Certificate," it is not necessary to submit any supporting documentation with the Voucher.

10-4.2 Procedures

A. The Region RESM prepares the *Invoice Voucher* as specified in Section 10-4.1 and obtains the vendor's signature on the "Vendor's Certificate."

B. Exercising an authority which may not be subdelegated, the Region RESM reviews the voucher, signs it in the "Division or Unit Received By" block, and transmits the voucher through channels to the Region Accountant for processing and payment.

10-5 Relocation Assistance Vouchers

10-5.1 Rules

A. The *Relocation Assistance Voucher* (DOT Form 264-009) is available as an electronic form.

B. All claims for payment are documented by attaching invoices, statements, or other supporting documentation.

C. Any deductions made for delinquent rent shall assume that the displaced person's ability to move and serve replacement housing will not be jeopardized. Prior approval by the Assistant Director of the Relocation Assistance Program is required.

10-5.2 Procedures

10-5.2.1 Preparation

The agent prepares the *Relocation Assistance Voucher* (DOT Form 264-009) in accordance with the following:

A. Displaced Person or Claimant block: Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the escrow company name and address should appear in the claimant block. A copy of the Entitlement Instructions will be sent with warrant to the escrow company.

B. Signature block (upper right-hand corner):

1. If the claimant is the displaced person, the claimant must sign in this space.
2. If the claimant is not the displaced person (as in the case of a direct payment to a commercial mover or other contractor), an original invoice must be attached and "See Attached Invoice" is inserted in the space.
3. If the claimant is not the displaced person, but the displaced person directs payment to said claimant, the displaced person must sign in this space.
4. A TIN must be inserted. The TIN for individuals is their SSN and for business it is their federal tax ID number. The agent must also obtain a completed W-9 from the payee in accordance with section 10-1.5.

C. Title: The official project title as shown on the approved right of way plan is inserted.

D. Federal Aid Number: The most current federal aid number is inserted here.

E. Parcel Number: The parcel number for the subject property is inserted here.

F. Displacee Number: The number assigned to the displaced person by REIS is inserted.

G. Date Parcel Vacated: The date the displaced person's personal property has been removed from the parcel is inserted here.

H. Replacement Housing Payments:

1. Replacement Housing — 180-day Owner: Amounts paid to or on behalf of residential owner-occupants displaced by a project (who have been in occupancy of the acquired dwelling for at least 180 days prior to initiation of negotiations) for a purchase or rent supplement payment. Includes reimbursement for loan fees and incidental purchase expenses. The maximum amount on this line is $22,500.
2. Increased Interest: Amount paid to owner-occupant for increased interest costs associated with financing the purchase of a replacement dwelling.
3. Rental Assistance — 90-day Tenant and Certain Other: Amount paid to 90-day tenants and owner-occupants (who have been in occupancy between 90 and 180 days prior to the initiation of negotiation) for a rent supplement. The maximum amount on this line is $5,250.
4. Down Payment Assistance — 90-day Tenants and Certain Other: Amount paid to 90-day tenant and owner-occupants (who have been in occupancy between 90 and 180 days prior to initiation of negotiations) for a down payment allowance toward the purchase of a replacement dwelling. The maximum amount on this line is $5,250..
5. Last Resort Housing-Owner: Any amount paid under the category of last resort housing to or on behalf of a displaced residential owner-occupant in excess of $22,500.
6. Last Resort Housing-Tenant: Any amount paid under the category of last resort housing to or on behalf of a displaced residential tenant-occupant in excess of $5,250. This includes all payments toward down payments in excess of $5,250.
7. Other: This portion of the voucher can be used to provide a narrative, such as a last resort housing case where payments will be made on an installment basis. If an advance payment has been or will be made, a narrative is also required.

I. Moving Expense Amounts:

1. Schedule/Dislocation Allowance-Residential: Amount paid to a person displaced from a dwelling by a project. The payment is based upon the number of rooms in the dwelling and whether they are furnished or not.
2. Actual Expenses-Residential: Amount paid to or on behalf of persons displaced from a dwelling by a project. Basically, any moving related payment which is not a schedule type would fall into this category.
3. Payment in Lieu of All Other Moving Expenses — Business/Farm/NPO: A particular type of payment available only to business, farms, or nonprofit organizations which meet certain criteria. This payment is also called a "Fixed" payment and is in lieu of any and all other types of payments for which the displaced person would otherwise be untitled. It is based on the business income, rather than actual moving costs.
4. Actual Costs-Business/Farm/NPO: Amounts paid to or on behalf of business, farm, or nonprofit organization for all actual, reasonable, and necessary moving expenses.
5. Reestablishment Costs-Business/Farm/NPO: Amounts paid to or on behalf of a small business, farm, or nonprofit organization for eligible expenses incurred in reestablishing the displaced activity at a replacement site.
6. Personal Property Only— Non-residential and Non-businees moves: Amounts paid to displaced persons who have personal property to be moved from the right of way due to an acquisition or project purpose where there is NOT a need for a full relocation of a residence, non-residential operation (vacant land), business, farm operation, or non-profit organization (NPO).
7. Other: This portion of the voucher can be used to provide a narrative — such as explaining an advance payment or deductions. Also, any moving payment which would not fit into one of the previously listed categories.

K. Deductions: This space is used when a deduction is necessary for rent delinquency or similar situation.

10-5.2.2 Signature

The Right of Way Agent:

A. Obtains the signature of the appropriate claimant(s).

B. Obtains a completed W-9 from the payee in accordance with section 10-1.5.

C. Assures that the date of signing is inserted in the space provided.

D. Signs and dates the voucher in the space provided.

E. Obtains the signature of the appropriate supervisor or manager within the region or work unit.

10-5.2.3 Approval

A. The agent identifies and inserts the proper account coding and the breakdown of federal participating and nonparticipating costs. Account coding information is contained in the departmental publication identified as the *Chart of Accounts*, M 13-01, Chapter 10.

B. The voucher along with completed W-9 or diary entry and all supporting documentation is sent to Headquarters.

C. The remainder of the approval is conducted as a part of the Headquarters processing.

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11-1 Responsibility

Property Management personnel are responsible for:

A. Providing effective management and security for all Washington State Department of Transportation (WSDOT) properties.

B. Ensuring "Fair Market Value" or "Economic Rent" is received from all sales and leases.

C. Disposing of property not required by the department.

D. To the greatest extent practicable, eliminating hazards and public nuisances originating on or caused by department-owned land or improvements.

11-2 Preparation for Management

11-2.1 Property Management System and Inventory

A. Property Management data records will be entered and maintained in an on-line computer system that will include:

1. Inventory of real properties and real property interests outside the operating right of way. A description of all such property types is shown in Appendix 11-1, Property Types.
2. Records of rental properties, including airspace.
3. Property disposal status/activities.
4. Real estate contract sales.
5. Reporting capability for various informational needs.
6. All improvements acquired, whether inside or outside of the operating right of way.

B. Detailed information about this system is contained in the *Property Management System Manual* (M 26-07).

11-2.2 Property Management Diary

A. The regional property management agent places a Diary of Right of Way Activities (Form RES-301) in the regional file for each parcel under the control of property management, whether improved or unimproved. When it becomes necessary to perform management activities on lands within the operating right of way, a diary will be placed in a file referenced by either an acquisition parcel number or inventory control number (ICN), as appropriate.

B. Since the diary is an official record, it is either typed or written legibly in ink. Each diary entry is dated and signed (full name) by the originator.

C. The diary contains a summary of every activity relative to the parcel. This includes inspections, telephone conversations, letters, approvals, sales, leases, maintenance, etc.

D. Copies of updated diaries are submitted to Headquarters when significant activities, such as initiation of a lease, modification to a lease, disposal activities, etc., occur.

E. Upon completion of all property management activities on a parcel, the completed diary is sent to Headquarters.

F. Diaries should contain the federal aid number when applicable per 23 CFR 710.305(C), as well as other appropriate identification numbers.

11-2.3 Project Inspection

As soon as practicable after receiving the approved right of way plans, the region inspects all real property and improvements to be acquired on the project, noting the following:

A. Number and type of improvements.

B. Type of construction.

C. Physical location and condition.

D. Review of factors determining whether the improvement can be moved.

E. Availability of sites for relocation of improvements.

F. Factors affecting removal.

G. Presence of hazardous materials (see Appendix 11-2).

11-2.4 Salvage Appraisal Report

A. The region prepares a Salvage Appraisal Report (DOT Form 263-003) for those improvements, including timber and crops, which may be sold as salvage.

1. For property management purposes, merchantable timber is considered to be an improvement (see Chapter 6, Section 5-8).
2. Fixtures, such as built-in cabinets, light fixtures, built-in appliances, etc., retained or salvaged by the grantor, also require preparation of a salvage report.
3. When the salvage appraisal report has been completed, the original is forwarded to Headquarters.
4. The region retains two copies: one for the regional property management file and one for use by the acquisition agent.

B. Headquarters reviews and approves the salvage appraisal report, then enters the approval into the computer database system.

11-2.5 Acquisition Transactions — Regional Processing

All acquisition transactions are routed to regional property management for review, comment, approval, and further action, if necessary.

11-2.5.1 Improvements Acquired Within the Operating Right of Way

When improvements are acquired within the operating right of way:

A. A Fixtures and Improvements Agreement (Form RES-335) is completed by the acquisition agent and is included in the transmittal package along with any additional information. An ICN is assigned to the parcel in accordance with the *Property Management System Manual* (M 26-07). The original and one copy are transmitted to Headquarters with the package and one copy is retained in the regional property management file.

B. The region assures that the Fixtures and Improvement Agreement, the Real Property Voucher (DOT Form 262-039), and the acquisition appraisal are consistent as to the identity and value, where a separate value for improvements is established.

C. For security and management purposes, the region identifies and inventories all trade fixtures acquired on commercial improvements.

D. The region enters the ICN into the computer database system, completes the property management section of the Right of Way Parcel Transmittal (DOT Form 262-048), initials in the "region action section," and passes the package to the next review station.

11-2.5.2 Salvage of Improvements Acquired by the Grantor

Please refer to Section 11-5.1 for procedures for the Salvage of Improvements Acquired by Grantor.

11-2.5.3 Real Property Acquired Outside the Operating Right of Way (Surplus Property)

When real property is acquired outside the operating right of way, the region:

A. Establishes an ICN for the surplus and enters the required information in the computer database system.

B. Assures that the requirements of Chapter 6, Remainders, have been followed.

C. Completes the property management section of the right of way parcel transmittal, initials the region action section, and passes the package to the next review station.

11-2.5.4 Surplus Lands Traded in Acquisition

The region:

A. Submits a disposal review package to Headquarters and obtains an approved valuation range prior to entering into an agreement to trade surplus lands in the acquisition process (see Section 11-7.3.1).

B. Upon approval from Headquarters, prepares an Exchange Agreement (Form RES-322). The agreement includes: parcel description, parcel number, ICN, federal aid participation number, and names and marital status of the grantee(s). Marital status will be used to determine the proper vesting in the forthcoming conveyance document.

C. Assures that the ICN has been entered into the computer database system, completes the property management section of the right of way parcel transmittal, initials the region action section, and passes the package to the next review station.

11-3 Initiating Management

11-3.1 Taking Control and Possession

A. If property is unimproved and unoccupied, taking control and possession occur at the same time. The region:

1. Inspects for presence of hazardous materials (see Appendix 11-2).
2. Notes presence of abandoned personal property/debris.
3. Enters "PM Clear Date" (as defined in Chapter 3, Glossary) in the computer database.

B. If property is unimproved and occupied, the state takes control on the payment available date. The region:

1. Inspects for presence of hazardous materials (see Appendix 11-2).
2. Enters into a 90-day rental agreement. If occupant refuses to enter into a rental agreement and intends to continue to occupy the parcel, the region refers the matter to Headquarters.

C. If property is improved and unoccupied, control and possession can occur at the same time. The region:

1. Inspects for presence of hazardous materials (see Appendix 11-2).

2. Notes presence of abandoned personal property/debris.
3. Verifies that all items listed on the Fixtures and Improvements Agreement are present. If there are discrepancies, the region prepares a detailed report describing the missing items, their value, and any opinion as to the reasons for the discrepancies and submits said report to Headquarters for further action.
4. Enters "PM Clear Date" (as defined in the Chapter 3, Glossary) in the computer database.

D. If property is improved and occupied, the state takes control upon the payment available date. The region:

1. Inspects for presence of hazardous materials (see Appendix 11-2).
2. Enters into a 90-day rental agreement with the occupant. If occupant refuses to enter into a rental agreement and intends to continue to occupy the parcel, the region refers the matter to Headquarters for further action.

11-3.2 Taking Possession After Vacation by Occupant

In those cases described in "11-3.1 B and D" above, the state takes possession after the occupant vacates. The region:

A. Inspects for hazardous materials (see Appendix 11-2).

B. Verifies that all items listed on the Fixtures and Improvements Agreement are present. If there are discrepancies, the region prepares a detailed report describing the missing items, their value, and any opinion as to the reasons for the discrepancies and submits the report to Headquarters for further action.

C. Checks rental status with Headquarters. If rental is delinquent, coordinates with the relocation agent and Headquarters for possible deduction of the delinquent amount from relocation assistance payments.

D. Verifies the status of any salvage removal (see Section 11-5.1).

E. Obtains a signed release, if possible, from the personal property owner for any abandoned property. If release cannot be obtained, documents diary accordingly.

F. Enters "PM Clear Date" (as defined in Chapter 3, Glossary) into the computer database.

11-4 Inspection and Maintenance of State-Owned Property

11-4.1 General

The region conducts periodic inspections of department-owned unimproved properties to guard against encroachments, theft, pest control, and dumping of debris and hazardous materials. Periodic inspections of improved properties are also required for these same reasons in addition to ensuring that local building, fire, and housing, and occupancy codes are satisfied. The inspections also provide an opportunity to evaluate the condition of the property and, in the case of improved properties, develop a management strategy for future use or development. The results of all property inspections are documented in the agent's diary and on the comments screen in the computer database.

If inspections reveal any situation which cannot be resolved by the region, a detailed report, including photographs, is sent to Headquarters for action. Headquarters will consult with the appropriate assistant attorney general, if necessary, and advise the region accordingly. If the parcel is designated as a capital facilities site, Headquarters advises the appropriate regional and Headquarters capital facilities contact.

11-4.2 Maintenance and Repair of Improved Properties

The region inspects each improvement to develop a strategy for continued use or demolition. A number of factors are considered during this process including the suitability of the improvement for continued occupancy, length of time until removal for construction, cost of repairs vs. income, and relocation assistance rights (see Chapter 12). Repairs to improvements may be accomplished by private contractor, rent credit, or state maintenance employees. The region is responsible for ensuring that any building permits and/or local government inspections required for the repair are obtained. Emergency repairs may be authorized by the region based upon individual circumstances.

11-4.2.1 Rent Credit for Maintenance or Repairs by Tenants

A. Rules

Unless authorized by Headquarters, rent credits are not allowed in cases when the current rent is delinquent or the tenant has a history of delinquencies. In addition, at least one month's rent must have been paid and the tenant must continue to pay the contract rent until the work is completed. The tenant must be qualified to do the work. Rent credits are applied only after the region determines the work has been performed satisfactorily.

B. Rent Credits Up to $1,500

1. The region may approve a rent credit up to $1,500 without Headquarters approval. Payment for tenant labor is not generally allowed for rent credit repairs. However, cases requiring special consideration may be submitted to Headquarters for review.
2. After the repairs have been completed in accordance with the agreement between the tenant and the state, the region submits a report to Headquarters including diary entries, paid receipts (for materials used in the repair), the original of the approved Property Inspection and Status Report, a copy of the building permit and related inspection report (if required), and photos showing the before and after repair/maintenance job.
3. Headquarters enters the total amount of the rent credit in the computer database. The region updates the comments screen.

C. Rent Credits Over $1,500

1. If the estimated cost of repair is over $1,500, the region prepares and transmits a Property Inspection and Status Report to Headquarters which includes the following:
   a. Complete description of the items needing repair, including photos.
   b. Itemization of materials needed to do the job, including any equipment rental, if needed. If tenant labor is to be considered, at least two costs estimates from private contractors are required.
   c. A cost/benefit analysis of the proposed repair. This should consider factors such as estimated length of time until sale or demolition, total repair expenditures to date, estimated cost of repairs in the future, if known.
   d. Updated diaries.
2. The region then transmits the above information to Headquarters for review/approval and Headquarters updates the computer database accordingly.
3. Upon approval from Headquarters, the region notifies the appropriate party or parties to proceed with the repairs/maintenance.

4. Upon satisfactory completion of the repairs/maintenance, the region transmits the original of the Property Inspection and Status Report, along with paid receipts, photos of work completed, and copies of building inspection reports, if required.
5. Headquarters enters the total amount of rent credit into the computer database and updates the comments to the computer database system.

11-4.2.2 Maintenance or Repairs by Private Contractor

A. Rules

When the region determines the maintenance or repairs must be done by a private contractor, all the requirements set forth in the *Purchasing Manual*, M 72-80, must be followed.

B. Maintenance or Repair Under $1,500

1. The region may approve a maintenance or repair up to $1,500 without Headquarters approval.
2. After the job is completed, the region transmits the original of the approved Property Inspection and Status Report, diary entries, copies of any bids required, a copy of required building permit and inspection report, along with photos of the before and after maintenance or repair.
3. Headquarters updates the computer database to reflect the total cost of the job.

C. Maintenance or Repair Over $1,500

1. If the estimated costs of the job exceed $1,500, the region follows the same procedures for rent credits of over $1,500 with the following exceptions:
   a. Upon approval from Headquarters, the region will award the contract.
   b. Upon successful completion of the contract, the region prepares and processes the necessary documents to pay for the work performed.
   c. Headquarters updates the computer database to reflect the total cost of the job.

11-5 Disposal of Improvements/Personal Property Within Right of Way

Improvements may be removed by the salvage method (sale to grantor or by auction), by contract demolition, or by inclusion in the project construction contract. Improvements may also be removed for use by WSDOT. If the improvement is on a federal aid project and is not used for the same or another federal aid project, appropriate credit must be given. The factors of economic feasibility and time are the primary concerns.

11-5.1 Salvage Rights Acquired by the Grantor

Under certain circumstances, the department may allow the grantor to purchase the salvage rights to any improvement acquired from him/her. In deciding whether or not to allow the grantor to salvage the improvements, the region must consider the occupancy rights of any tenant on the property and whether or not there is enough time to remove the improvements before construction. The complications that can arise from salvaging tenant occupied improvements can be significant and should be carefully considered.

If the grantor purchases the salvage rights to an improvement, the region:

A. Ensures that the Fixtures and Improvement Agreement has been completed and the salvage values have been approved by Headquarters.

B. Verifies that the value of any salvage purchased by the grantor has been deducted from the Real Property Voucher and the performance deposit has been processed appropriately.

C. Ensures that the Fixtures and Improvement Agreement provides a clear understanding and agreement between the department and the grantor as to when the improvement is to be removed and that the performance deposit will become forfeit if the improvement is not satisfactorily removed by that date.

D. If the improvement is tenant occupied, ensures that there is sufficient time after the tenant vacates to complete the salvage.

E. Monitors the salvage operation to make sure the improvement salvage and resultant cleanup will be accomplished on time. If it appears the grantor will be unable to complete the salvage by the previously agreed upon date, the region may consider allowing a time extension. Headquarters should be notified of any extensions and if appropriate, region will have grantor enter into a month-to-month lease.

F. Upon successful completion of the salvage activity, submits a Property Inspection and Status Report to Headquarters requesting a release of the performance bond and Headquarters updates the computer database accordingly.

G. If the improvement salvage and cleanup are not satisfactory, submits a Property Inspection and Status Report to Headquarters recommending forfeiture of the performance bond. The transmittal includes photos of remaining improvements/debris, copy of the updated diary, and a statement about the future disposition of the improvements.

11-5.2 Sale of Improvements/Personal Property by Auction

The department may, in accordance with the provisions of RCW 47.12.140, elect to sell any "structures, timber or other thing of value attached to the land . . . and sell as personal property." In making its determination to sell these items, the department considers whether or not there is enough time to conduct the auction and remove the items prior to construction. Any tenant occupancy rights as well as the economic advantage of conducting an auction are also considered. ***Note:*** Special rules for the auction of timber are given at Section 11-6.

11-5.2.1 Preparation for Sale

In preparation for the auction, the region:

A. Establishes a salvage value for the items and prepares a Salvage Appraisal Report for each item to be sold.

B. Prepares and transmits a Request for Authority to Auction Salvage Rights to Improvements (see Appendix 11-3) and a Notice of Auction (see Appendix 11-4) and obtains Headquarters approval. The policy for establishing minimum bids for auction of salvage are:

Salvage Value	Minimum Bid
$500 and over	50% of Salvage Value
$0 to $499	$10

C. Prepares a Notice of Auction which includes all the information contained in the Request for Authority, except for the list of legal newspapers. A sample of such notice may be found in Appendix 11-4.

D. Publishes the Notice of Auction twice, with an interval of one week between publications, in the "Legal Notices" section of a legal newspaper published in the county in which the sale is to take place. ***Note:*** If there is no legal newspaper published in the county, then the notice is published in the legal newspaper nearest to the sale site and located in this state.

E. Mails copies of the Notice of Auction to all persons on the mailing list for the sale area.

F. Attaches a copy of both sides of the auction notice to the item to be sold.

G. Prepares a Personal Property Sale and Removal Agreement (DOT Form 263-023) for each item on the auction notice.

H. Assures that all WSDOT personnel involved in the sale are aware of the restriction on sales to WSDOT employees (see Chapter 1, Sales to Employees).

I. Contacts the local Washington State Department of Revenue office to determine appropriate sales tax rates for the area of the properties to be sold. ***Note:*** The tax rates can vary within the same area.

11-5.2.2 Sale Procedure

On the date of the sale, the region:

A. Inspects the property. If a change in the condition of the property has occurred which affects the value, the region contacts Headquarters for approval to lower the minimum bid. Upon approval by Headquarters, the region updates the Salvage Appraisal Report and the computer database.

B. Opens the properties for inspection before the beginning of the sale.

C. Calls the qualified prospective bidders together in a convenient location and makes the following announcements before beginning the sale:

1. A statement that none of the persons conducting the sale may become a purchaser, have an interest in any purchase, nor accept any commission, gratuity, or award in connection with the sale.
2. Names any WSDOT employees who have been authorized by the Secretary of Transportation to bid as private citizens.
3. A review of the terms and conditions of the sale and, if a performance deposit is required, the extent of the cleanup required to qualify for refund of the deposit.
4. The order in which items will be sold, and whether any items have been removed from the sale. Also whether shrubs and appurtenances are included in the sale.

D. The auctioneer begins the sale by asking for the minimum bid on the first parcel and continues until all bidding is completed on that parcel.

E. Upon completion of the bidding for a parcel, the auctioneer (or assistant) will record the name, address, telephone number, and bid amount of the successful bidder. The required deposit including performance bond is collected and a receipt is issued.

F. Obtains from the successful bidder:

1. All information necessary to complete the Personal Property Sale and Removal Agreement.
2. Payment in compliance with the terms of the Notice of Auction.

G. Completes a Receipt (DOT Form 133-105) for all payments received.

H. Delivers the third copy of the Personal Property Sale and Removal Agreement and the original of the Receipt to the purchaser.

I. If no acceptable bid is received, the auctioneer may announce (at the end of the auction) that the unsold items may be reauctioned. If it is determined that the unsold items will not be reauctioned, it shall be lawful for the WSDOT to sell the item(s) at private sale for the best price which it deems obtainable but not less than the highest amount bid at the auction.

11-5.2.3 Post Sale Procedure

After the sale is completed, the region:

A. Records the sale (including the amount received and the performance deposit) on the Receipt and on the Personal Property Sale and Removal Agreement and updates the computer database. If the sale is a facility property, both the Receipt and the Personal Sale and Removal Agreement contain a comment with such information.

B. Distributes copies of the Receipt and Personal Property Sale and Removal Agreement as follows:

1. Copies of the Receipt are distributed as noted on each colored copy.
2. Additional photo copies are sent to Headquarters and the regional file, along with copies of the Personal Property Sale and Removal Agreement.

C. Monitors the improvement removal operation to make sure the removal and resultant cleanup will be accomplished in a timely manner. If it appears the purchaser will be unable to complete the removal by the agreed upon date, the region may consider allowing an extension of time to complete the removal.

11-5.3 Disposal of Improvements by Demolition Contract

When the region decides to hire a contractor to demolish the improvement, the following procedures are followed in addition to those provided in the *Purchasing Manual*, M 72-80:

A. Upon satisfactory completion of the demolition, the region prepares and processes the necessary pay documents.

B. If the demolition has not been satisfactorily performed, the region transmits a report to Headquarters detailing the noncompliance issues. The report includes photos of items to be removed and estimates for satisfactory completion of the contract. Headquarters refers the matter to the Attorney General's Office, if necessary, and coordinates with the region for resolution of the problem.

C. The region updates the computer database.

11-5.4 Removal of Improvements by Project Contractor

When the region has determined that the improvement is to be removed by the project contractor, the Regional Real Estate Services Office must make sure that the project engineer is advised and the improvement is included in the project contract prior to the ad date. The region updates the computer database accordingly.

11-5.5 Removal of Improvements for WSDOT Use

Improvements and personal property may be removed for department use. The region must document the parcel file and update the computer database accordingly. If the improvements and/or personal property are removed from a federal participating project and not used for another federal project, the region must determine the value of the items and credit the Federal Highway Administration (FHWA) accordingly.

11-6 Disposal of Timber (Reserved)

11-7 Disposal of Surplus Property

11-7.1 General

A. Whenever WSDOT determines that any real property owned and under the jurisdiction of WSDOT is no longer required for transportation purposes and that it is in the public interest to do so, WSDOT may dispose of the property. WSDOT may sell the property or exchange the property for other lands needed for fair market value. In accordance with RCW 47.12.063, any such sale or exchange may be made to any of the following entities or parties:

1. Any other state agency.
2. City or county in which the property is situated.
3. Any other municipal corporation.
4. Former owner of the property from whom the state acquired title.
5. Tenant of the department of a residentially improved property who has resided thereon for not less than six months and who is not delinquent in paying rent to the state.
6. Any abutting private owner but only after each other abutting owner (if any) as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within 30 days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283.
7. Any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.12.283.
8. Any other owner of real property required for transportation purposes.
9. In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in Chapter 43.185 RCW.

B. The region will periodically review the properties it manages and determine if any such properties should be declared surplus to WSDOT needs. If such a determination is made, the region shall complete a disposal review.

C. Final approval for disposal, method of disposal, and value of the surplus property will be determined by Headquarters.

D. Property may be conveyed to another governmental agency for no consideration if the property will be used for highway purposes. Acceptable highway uses would be information areas and park and ride lots for commuters. Unacceptable uses would be commercial parking lots, parks, or governmental buildings. Conveyances of any such property may be subject to reversionary clauses or deed restrictions as to use.

E. Property may be conveyed to another governmental agency for a proposed use which is not a highway use but which may directly benefit the traveling public, e.g., a fire station. In such cases, the property price may qualify for a preapproved discount not to exceed 15 percent.

11-7.2 Disposal Processing

A. Region Processing

The region determines that a property is no longer needed by WSDOT by completing a disposal reivew. Once the region has completed its review and a favorable recommendation is given, a disposal package should be compiled and submitted to Headquarters for further action. The disposal package should include the following documentation:

1. Region Administrator's (or appropriate designee) letter of approval containing the following statements:
   a. The lands will not be needed for transportation purposes in the foreseeable future.
   b. The right of way being retained is adequate under present day standards for the transportation facility.
   c. The release will not adversely affect the facility or the traffic using it.
   d. The lands to be disposed of or relinquished are not suitable for retention to restore, preserve, or improve the scenic beauty adjacent to the highway.
   e. The lands to be disposed of or relinquished are not suitable for inclusion into our wetlands inventory.
   f. The lands to be disposed of or relinquished are not needed for a park and ride lot, flyer stop, or similar facility to accommodate high occupancy vehicles.
   g. No hazardous material is present on the site, and any necessary cleanup has been completed.
   h. Specific information regarding rights to be reserved.
   i. A statement that the property was or was not acquired with federal participating funds. If the property was acquired with federal funding, the federal aid number must be supplied.
2. All regional review and comment documents.
3. Two sets of photographs of the property together with a map showing the direction of the shots.
4. Two half size copies and one full size copy of the right of way plan sheet with the property to be disposed of outlined in red.
5. Tax parcel number of this parcel, if assigned. If no tax parcel number is assigned, the tax parcel number of each abutting ownership must be supplied.
6. Names, addresses, and telephone numbers of abutting owners, including contract purchasers.
7. All correspondence from interested abutting owners and/or other potential purchasers and any responses.
8. Notation of any special features or conditions on the property, such as encroachments, utility availability, access, boundaries, improvements, similarities, and differences to adjacent properties, etc., which could affect sale or value.
9. Written directions to the property to enable locating and inspection of the property.
10. Notation of the right of way project number, acquisition parcel number, and federal aid number (if applicable) on which the property was originally acquired.

11. Surplus Property Report with Section 1 completed.
12. Diary of Right of Way Activities.
13. If the property to be disposed of is or was a pit site, the following documentation needs to be submitted:
    a. Pit Evaluation Report (DOT Form 350-023).
    b. Reclamation Plan, if appropriate.
    c. Hazardous Materials Assessment and Remediation Reports.

    Note: Refer to Section 11-11, Capital Facilities, for further details.
14. Information from county assessment records showing assessed value, property size, and assessment year of adjacent and other nearby parcels.
15. Recommendation of property value based on available information. If the value of the property appears to be $10,000 or less, the region agent should prepare a value memorandum citing the rationale and evidence obtained for the conclusion of value. Information to be included in the memorandum would be:
    - size of parcel
    - current use of parcel
    - anticipated highest and best use
    - support
    - Items 3, 5, 6, 8, and 14 shown above if not already provided

    The conclusion may indicate a range of value rather than a single dollar amount.
16. Recommendation for method of disposal. The final decision as to method of disposal will be made by Headquarters.

B. Headquarters Processing

Upon receipt of the disposal package from the region, Headquarters will process the disposal package as follows:

1. Request title check to verify ownership, type of interest held, and any restrictions affecting the property.
2. Route package through appropriate Headquarters review departments for approval and comments.
3. Review submitted value information and approve, concur, or order full appraisal as needed.
4. Request required plan revisions as noted by right of way plans on Headquarters review.
5. Request FHWA approval for disposal and plan revision, when the disposal resides within the Interstate.
6. Develop a negotiation range based on appraisal/DV or value information.
7. Recommend method(s) of disposal considering the requirements of RCW 47.12.063 and region recommendations, if any.
8. Establish special conditions, restrictions, and/or terms for disposal.

9. Obtain necessary approvals for disposal by completion of a Surplus Property Report and direct package to appropriate method of disposal.
10. Assure that all computer database entries are correct and current.

11-7.3 Methods of Disposal

11-7.3.1 Trade or Exchange

A. Before any lands may be traded or exchanged, Headquarters must review and approve such a trade and will determine the value of the parcel to be traded. Please refer to Section 11-2.5.4 for details.

B. Once Headquarters has reviewed and approved the parcel for trade and has established the value of the parcel, the region will be notified of such approval and value and may proceed to negotiate a trade of the parcel. Upon successful completion of negotiations with the parcel, the region will obtain and submit an Exchange Agreement to Headquarters.

C. Trades or exchanges of surplus WSDOT property for other property needed for transportation purposes in a project will be negotiated by the region in accordance with Section 6-4.3 of the *Right of Way Manual*.

D. At the appropriate time, Headquarters will complete the trade by issuing the proper conveyance document.

11-7.3.2 Direct Sale

A. Normally, all direct sales will be initiated by Headquarters and negotiated by letter and/or telephone. The property will be sold in accordance with the approved Surplus Property Report. Under special circumstances, the file may be directed to the region for negotiation of the sale. If a parcel is assigned to the region for negotiation, the region should consult with Headquarters for proper procedures for payment processing and file documentation.

B. Cash Sale Terms

1. If the agreed sale price is $250 or less, the purchaser must pay the full amount at the time of sale.
2. If the agreed upon sale price exceeds $250, a deposit of 10 percent of the sale price (but not less than $250) must be paid at the time of sale with the remaining balance to be paid within 60 days.

C. Contract Sale Terms

1. Contract terms may be offered on a purchase balance of $1,000 or more upon approval of the purchaser's credit. Contract terms on a purchase balance of less than $1,000 may be offered only with special approval by the Assistant Director of Property Management (ADPM).
2. The normal deposit of 10 percent of the sale price may serve as the down payment. A down payment greater than 10 percent will be required if payments other than monthly are requested or when there are improvements on the property.
3. The contract term is usually not less than one year nor greater than 20 years. Normally, the term will be one year for every $1,000 owed. Longer terms may be approved by the ADPM under certain circumstances.
4. The interest rate will be established by Headquarters.
5. Contracts may be assigned only upon written approval by Headquarters.

D. Sale to Abutting Owner(s)

1. A written offer to sell the property is mailed to all abutting owners as shown in the records of the county assessor. Waivers are obtained from all abutting owners who are not interested in purchasing the property. If more than one abutting owner indicates an interest in purchasing the property, the property will be sold at public auction.

2. If a written agreement signed by all abutting owners is provided, the property may be sold to multiple abutting owners. The purchasers must provide a survey map and legal descriptions to facilitate preparation of appropriate conveyance documents. The combined sales of all individual parcels must not be less than the price of the parcel as a whole.

3. If a prospective purchaser makes a counter offer that is within the approved negotiation range shown on the Surplus Property Report, the negotiating agent must review the offer with the supervisor before proceeding as follows:

   a. If the counter offer is acceptable, notifies the purchaser in writing of said acceptance and proceeds to complete the sale.

   b. If the counter offer is not acceptable, notifies the offeror that the counter offer is not acceptable and requests an increased offer. If another counter offer at an increased amount is received that is acceptable, notifies the purchaser in writing of said acceptance and proceeds to complete the sale.

   c. If the counter offer is not acceptable and the offeror does not wish to make another offer, the parcel is assigned for the next approved method of disposal.

11-7.3.3 Auction Sales of Real Property

Auction sales may be conducted by either oral bidding or sealed bids in accordance with RCW 47.12.283. Headquarters will determine the type of auction sale and will schedule and conduct said sale.

A. Pre-sale processing for both oral and sealed bid auctions is as follows:

1. Headquarters will prepare a Notice of Auction which includes:

   a. Date, place, and exact time of auction.

   b. Abbreviated legal description of the property.

   c. Location and site description sufficient to enable field location of the tract.

   d. Detailed terms of the sale, including deposit amounts.

   e. ICN of the parcel.

   f. Minimum bid.

   g. Type of instrument that will convey title.

   h. Address and telephone number for securing further information or obtaining answers to questions about the sale.

   i. Statement that “The state reserves the right to postpone or cancel all sales or to reject any and all bids.”

   j. For sealed bid auctions, the address and telephone number for obtaining bid forms and detailed instructions.

2. Headquarters will give notice of the sale by publication of the "Notice of Auction" on the same day of the week for two consecutive weeks, with the first publication at least two weeks prior to the date of auction, in a legal newspaper of general circulation in the area where the property is located. A notice shall be placed in both the legal notice section and the real estate classified section of the newspaper.
3. Headquarters, together with the region, will post the property "For Sale" with a copy of the "Notice of Auction" at least two weeks prior to the scheduled sale.
4. Headquarters will mail copies of the "Notice of Auction" to all parties on the appropriate mailing list, abutting owners, and any interested parties as disclosed in the surplus property file.
5. For sealed bid auctions, Headquarters will also complete the following tasks:
   a. Record all requests for sale packets. The record shall include name, address, date of request, specific parcel of inquiry, and date packet is mailed to requester.
   b. Answer any questions or inquiries not explained in packet.
   c. Receive the sealed bids. The bids shall remain sealed until the bid opening. The bids will be date-time stamped and logged onto a bidder sheet. The bidder sheet will show the name, address, date, and time of bid receipt and minimum bid before the bid opening with the official bid amount to be noted upon opening.

B. Sale Procedure for Oral Bid Auctions

1. At the advertised time and place, the auctioneer begins the auction sale by making the following announcements:
   a. Names, if any, of any WSDOT employees authorized by the Secretary of Transportation to bid as a private citizen.
   b. The type of interest being sold.
   c. Conveyance of the property will be by Quitclaim Deed with no title insurance or survey.
   d. Any guarantees, restrictions, reservations, or special contingencies that apply to any of the parcels being sold.
   e. Asks for and answers any questions before beginning the bidding.
2. The auctioneer begins the sale by asking for the minimum bid on the first parcel and continues until all bidding is completed on that parcel.
3. Upon completion of the bidding for a parcel, the auctioneer (or assistant) will record the name, address, telephone number, and bid amount of the successful bidder. The required deposit is collected and a receipt is issued.
4. Bidding will continue until all parcels have been offered.

C. Sale Procedure for Sealed Bid Auctions

1. The auctioneer begins the auction at the time and place advertised as follows:
   a. Announces the names of the persons who will be opening the bids and recording the bids.
   b. States that the bids are organized in order of ICN and in order received.
   c. Announces sale procedures and any changes, withdrawals, or variations from those procedures.

d. States that WSDOT may waive minor informalities or irregularities in bids received or may reject any or all bids in whole or in part.

e. Announces the names of any WSDOT employees who have received approval to bid on any parcels.

2. The bid opener opens all sealed bids for a parcel, verifies that the minimum bid requirement has been met, that the bid form is complete and signed and that the deposit payment meets minimum requirements. The opened bids are handed to the auctioneer.

3. The auctioneer reads each bidder's name and bid amount aloud. The bids are handed to the bid recorder who records the necessary information on the bidder sheets.

4. After all bids for a parcel have been opened and announced, the auctioneer then announces the apparent successful bidder. This process continues until all parcels have been sold. The auctioneer asks for and responds to any final questions before declaring the auction closed.

5. The auctioneer issues receipts to all successful bidders and deposits all purchase payments into the proper accounts.

D. Post Sale Processing

1. If the sale cannot be completed by the successful bidder, Headquarters:

a. Will notify the bidder that the sale is canceled and that payments are forfeited, if appropriate.

b. Will notify the accounting section of the forfeiture and sale cancellation.

c. May offer the parcel to the next highest bidder provided said bid is acceptable.

d. May return the parcel to the auction drawer until the next auction is scheduled.

2. If the sale cannot be completed by WSDOT, Headquarters will notify the bidders that the sale is cancelled and return all bids unopened.

3. If two or more bidders submit identical high bids, Headquarters will:

a. Notify each bidder of the tie and return any surety deposits by certified mail within 24 hours of the bid opening.

b. Request a new bid with appropriate deposit from each tied bidder to be submitted within 30 days after the original bid opening.

c. Award the bid to the new high bidder.

4. If any parcel or parcels are not sold at auction, Headquarters may:

a. List the parcel with a real estate agent at the minimum bid price in accordance with RCW 47.12.283(4).

b. Hold the parcel for sale at a later auction.

c. Negotiate a sale for the property for no less than the last advertised minimum bid price pursuant to RCW 47.12.283(5).

11-7.4 Final Processing and Document Preparation

11-7.4.1 Real Estate Contract

A. A purchaser who wishes to enter into a Real Estate Contract for the payment of any remaining balance due on a purchase of property must complete an Application for Deferred Payments (DOT Form 263-008)

B. Headquarters will order and review a credit report on the purchaser. If the credit report is not acceptable, the applicant will be informed of the disapproval and that the property may still be purchased for cash with payment being due 60 days from the date of sale or 30 days from the date of notification of credit disapproval. If the purchaser/applicant cannot complete this sale for cash, the sale to that purchaser will be canceled and all surety deposits will be refunded. If the purchaser/applicant can complete the sale for cash, the final processing will take place as described in Section 11-7.4.2.

C. If the credit report and Application for Deferred Payment is approved, Headquarters will prepare a Real Estate Contract and send it to the purchaser for signature together with a request for a check for recording fees, $2 excise tax fee, other applicable fees, and additional down payment. When the Contract has been signed and returned to Headquarters along with the check for fees, Headquarters will obtain the appropriate signatures for WSDOT and send the Contract for recording to the appropriate county.

D. When the recorded Contract is returned to Headquarters, copies will be distributed to the purchaser, the region, and Headquarters Title Section for posting. The original document will be retained in Headquarters parcel file.

E. Headquarters will collect all payments on the Contract until it is paid off and will enter all payments into the computer database. All payments will be transmitted to the comptroller within 24 hours of receipt.

F. If a purchaser defaults on a Real Estate Contract, Headquarters will take the following steps, in accordance with RCW 61.30.070:

1. Where the payment is 45 days past due and no arrangements have been made for late payment, a reminder letter will be sent to the purchaser.
2. Where payment is 75 days past due and no arrangements have been made for late payment, a payment demand and notice that forfeiture proceedings will commence will be sent to the purchaser.
3. Where payment is 105 days past due, forfeiture proceedings will commence. Headquarters will order a title report for court proceeding purposes. Based on the title report, a “Notice of Intent to Declare Forfeiture” will be prepared, signed, and recorded in the county where the property is situated. Within ten days after recording, a copy of the “Notice” is sent to all interest holders and occupants by both certified mail, and regular mail, and is posted on the property.
4. If the default is not cured within the statutory time period (at least 90 days), a “Declaration of Forfeiture” is prepared, signed, and recorded in the proper county.
5. Within three days after recording the “Declaration,” a copy is sent to all interested parties and occupants by both certified mail and regular mail.
6. After the forfeiture is completed and a 30-day appeal period has expired, the parcel may be resold.
7. Headquarters may make adjustments to the schedule of letters and notifications on delinquent payments.

G. A purchaser may request a partial fulfillment deed. If such a request is received, Headquarters will prepare a map showing the total area under the contract and the area covered by the request for partial fulfillment deed. This map is submitted to the Appraisal Section with a request for a determination as to how much additional payment, if any, is needed to facilitate the request. The purchaser is advised of any additional payment needed. Upon receipt of the additional payment, document preparation will be commenced.

11-7.4.2 Cash Sale, Final Contract Payment, and Conveyance

Upon receipt of full payment of the sales price either at the time of sale or in fulfillment of a Real Estate Contract, Headquarters will prepare the appropriate conveyance document and send it to the Attorney General for approval. Upon receipt of Attorney General approval, the document is sent to the grantee/purchaser for approval as to form along with a request for checks for payment of recording fees and a $2 excise tax fee. When the document and the appropriate fees are returned to Headquarters, the document is signed by the Secretary of Transportation, posted to the right of way plan sheets by the Title Section, and sent to the county auditor for recording. After the document is returned from recording, the original is sent to the grantee and copies are sent to the region, the Title Section, and the Right of Way Plans Section of Headquarters. The file is then closed.

11-7.5 Modification of Limited Access

A. The process and standards for requests for access modification are described in Section 1420.10 of the *Design Manual*, M 22-01.

B. A conceptual approval of a modification in access must be obtained from the Access and Hearings Engineer.

C. Upon preliminary approval of a modification in access, the region and Headquarters will process a disposal package as described in Section 11-7.2, including obtaining FHWA approval.

D. Final approval of a modification in access is denoted by a signature on the right of way/ access plan by the Deputy State Design Engineer.

E. Headquarters will negotiate the access modification, collect the payment, and prepare and record the proper conveyance document.

11-8 Leasing

11-8.1 General

A. Definition of Lease

1. "Airspace" is defined as the space above, at, and below the gradeline of all *completed* highways, as well as the area alongside the traveled way within the right of way lines.

   Note: Any proposal to lease property that lies both inside and outside the right of way line is processed as an airspace lease.

2. All property which lies outside of the right of way line will be leased using one of the following lease forms as appropriate:

   a. 90-Day Single Family Residential Lease

   b. 90-Day Commercial Lease

   c. Ground Lease

   d. Commercial Lease

   e. Single Family Residential Lease

B. Consideration

All leases, including Airspace, must be based on economic or market rent. Exceptions to collecting economic rent may be considered where property is leased for "transportation purposes" or when the economic rent can be justifiably offset by benefits to the motoring public which equal rent value and is so documented.

C. All leases, except standardized leases (without material modification), must be reviewed and approved by Headquarters and the Attorney General prior to obtaining the signature(s) of the tenant.

Standardized Leases include:

90-Day Single Family Residential
90-Day Commercial
Single Family Residential

D. When WSDOT acquires an occupied property, a 90-Day Lease will be entered into with the tenant if they remain in occupancy. The lease may be prepared and signed by the tenant without prior approval of the form if there are no material modifications.

11-8.2 Application for Lease

11-8.2.1 Initial Application

A. The region will provide an appropriate Application to Lease to any person or party who is interested in leasing any property owned by, or under the control of WSDOT. There is an application for unimproved properties and a different application for improved properties. In addition, the region will provide the applicant with any additional information which will help in completing the application, such as zoning, restrictions, design criteria, etc.

B. Once the application has been completed and submitted to the region, the application will be reviewed for completeness, clarity of the proposal, eligibility of the applicant, credit history of the applicant, and availability of the property for lease.

11-8.2.2 Review/Approval of Application

A. The Region Process (Airspace Only)

1. Upon initial acceptance of the application by the region, the lease proposal or application is routed to the appropriate divisions or sections for review, comment, and approval/disapproval. If the site has been leased previously for the same or similar purpose, a full engineering review may not be needed. The region should verify that no present or future construction or maintenance projects will conflict with the proposed lease use.

2. Once the region review is completed, the lease proposal and recommendations for action are submitted to the Regional Administrator for approval.

3. The region then submits the lease proposal/application, the regional review comments and recommendations, and the Regional Administrator's approval to Headquarters for further review and approval.

B. The Headquarters Process (Airspace Only)

1. Upon receipt of the lease application and supporting documentation from region, Headquarters will route the package to the appropriate Headquarters divisions and sections for review, comment, and approval when necessary.

2. When Headquarters review has been completed, the application package will be forwarded to FHWA, if necessary, for their review and approval. FHWA approval is necessary if the proposed lease area is associated with the Interstate.

3. Once all reviews have been completed and all approvals obtained, Headquarters will notify the region to proceed to prepare the appropriate lease document.

11-8.3 Lease Preparation

11-8.3.1 Region Process

A. The region establishes an economic rent for the lease based on a market survey, an appraisal, or other appropriate rental data. The rent amount must be approved by Headquarters prior to offering to the tenant. ***Note:*** Maintenance savings alone without considering rental value is not acceptable.

B. The region determines whether the lease is subject to a Leasehold Excise Tax (LET). If there should be a LET, the region obtains the "Levy Code" (Tax Area Code) for the leased premises from the county assessor. To enable the assessor to locate the property, the tax parcel number, subdivision, lot, block, section, township, range, or other information will likely have to be provided by the region. In addition, the "County Location Code" will have to be obtained from the Department of Revenue. All this information must be entered into the computer database along with the appropriate rental type code. If there are any questions, problems, or discrepancies, Headquarters should be consulted.

C. The region prepares a draft lease using an appropriate lease format, or the latest master airspace lease with "boilerplate" language. Headquarters maintains an updated master with standard provisions as well as specific provisions which will be provided to the region upon request. All leases must include an exhibit map from the right of way plan which should be labeled as "Exhibit A" and which should show the leased premises by hachures and an identifying arrow.

D. A custom airspace lease format may be prepared when necessary. The format should use standard boilerplate language and provisions as much as possible. The custom lease may have additional provisions or may delete provisions as appropriate.

E The region submits the draft lease via e-mail to Headquarters for approval of form, terms, rent, and special provisions before securing any signatures by tenants.

F. Upon receipt of the approved lease form, the region will secure tenant signature. If the lease is for a single family residence built prior to 1978, appropriate lead base paint/ asbestos information will be supplied to the tenant with receipt acknowledged in writing by the tenant.

11-8.3.2 Headquarters Process

A. Headquarters will review the draft lease form submitted via e-mail by the region. If the lease form is acceptable, it will be forwarded to the Attorney General for approval. Upon approval by the Attorney General, the lease form will be returned to the region via e-mail to obtain the signatures of the tenant as described in 11-8-3-1 F.

B. Once the lease has been executed by the tenant, the signed lease should be returned to Headquarters with the following attachments:

1. Rental Agreement Transmittal (DOT Form 263-009).

2. Complete Lease Application with Regional Administrator or designee's approval and regional review comments/recommendations.

3. Lease.
4. Rental rate justification.
5. Copies of pertinent correspondence.
6. Federal aid project number and parcel number.
7. Right of way plan sheet showing leased premises attached as Exhibit "A."
8. Photos of the site from all directions.
9. Background discussion of lease proposal.
10. Indication of consideration for disposal if appropriate.
11. Discussion of other departmental or other similar leases in area for comparison of rent, terms, etc.

    In addition, the following items should be submitted for airspace leases:

12. Cross sections showing elevations of leased area, the roadway, and abutting lands. Note any overhead structures (bridges).
13. Discussion of potential impacts on highway operation.
14. Explanation of access to leased area and any impacts on access control.
15. Discussion of highway characteristics, number of lanes, clear zones, sight distances, fencing, traffic movement, traffic volumes, curbing, channelization, and landscaping where the appropriate signatures will be secured.
16. Discussion of benefits to WSDOT and the traveling public.

C. Headquarters will then secure the appropriate signatures. If necessary, the lease or a Memorandum of Lease will be recorded. The original lease will be kept in Headquarters with copies of the fully executed lease being sent to the region and the tenant.

D. Headquarters assures that all data entered into the computer database is correct and complete.

11-8.4 Rent Collection

11-8.4.1 Procedure

A. In compliance with accounting requirements, all rental payments must be deposited within twenty-four (24) hours of receipt. The initial rental payment, which may be paid at the time the rental agreement is signed, may be paid in the region or mailed directly to Headquarters by the lessee.

1. If the initial rental payment is paid in the region, the property management agent issues a receipt for said payment to the tenant and immediately delivers the payment to the Regional Accounting Office for handling.
2. The Regional Accounting Office deposits the payment into a suspense account and immediately forwards a copy of the payment receipt, a cash receipt from TRAINS, and any other supporting information describing the rental payment to Headquarters.
3. Headquarters then redistributes the rental payment into the proper accounts.

B. All other rental payments after the initial rental payment are to be paid directly to Headquarters. Computer generated Rental Statements are obtained through the computer database twice a month in advance of the rental due date. Rental Statements are reviewed for correctness and mailed to the tenant (along with a return envelope) approximately ten days prior to the due date.

C. The rental payment is processed by Headquarters upon receipt and appropriate entries are made in the computer database.

11-8.4.2 Rent Adjustments

When a lease term is greater than five years or when a lease contains a provision for rent review or adjustment, rent should be adjusted as follows:

A. Indefinite Term Lease: Rent should be reviewed every three years. The adjustment may be based on the Consumer Price Index for Urban Consumers (CPI-U), a market survey, or a fixed percentage, whichever is appropriate and agreed to between the region and Headquarters.

B. Five-Year Term Lease: Rent should be reviewed in the 30th month with the adjustment to be based on a market survey, or the CPI-U, or a fixed percentage. The adjusted rent shall be effective beginning with the 31st month.

C. Ten-Year Term Lease: Reviews of rent should occur near the end of the third year, and the end of the sixth year, and at the end of the primary term if a lease is to be extended. Adjustments are to be based on market survey, CPI-U, or fixed percentage, as set forth in the lease.

D. Twenty-Year Term Lease: The first rent review should occur at the end of the fifth year with subsequent reviews every three years thereafter. Again, adjustments are to be based on market survey, CPI-U, or fixed percentage.

E. Over Twenty-Year Term Leases: Review is the same as for 20-year leases. Any rent adjustment will require prior Headquarters approval.

11-8.4.3 Partial Refunds for Early Vacation

A. If a tenant vacates prior to the end of the rental period, the region confirms that:

1. All rent payments are current.
2. The tenant gives proper notice as required by the lease prior to vacating.
3. The premises are left reasonably clean and in a condition similar to that which existed prior to leasing.

B. The region initiates a refund by transmitting a Property Inspection and Status Report to Headquarters.

C. Headquarters reviews and approves the refund request, prepares and processes an appropriate voucher, and mails the refund to the tenant when it becomes available.

11-8.4.4 Delinquent Rentals

A. On the 1st and 16th of each month, a rental delinquency/default report from the computer database is generated which lists all leases that are more than 15 days delinquent. With the aid of this report, Headquarters:

1. Prepares and mails a delinquency letter to each tenant listed that is more than one month's rent behind requesting payment.
2. Coordinates further action with the region.

B. The region:

1. Follows up on the delinquency letter within 15 days and checks PMS to determine if the delinquent rent has been paid.
2. Contacts the tenant if payment has NOT been made and requests payment. The tenant's response should be noted and conveyed to Headquarters.
3. Advises the relocation agent, if any, of the rental delinquency to determine if rent can be deducted from relocation assistance payments, if any.
4. Mails a certified letter to the tenant setting forth goals and deadlines for payment of the delinquent rent. A copy of this letter is transmitted to Headquarters.
5. Serves a 30-Day "Notice to Pay or Vacate" to the tenant when delivery of a certified letter is unsuccessful. Service of the 30-Day Notice can be accomplished by direct delivery in person to the tenant with a copy mailed to the tenant or by posting the notice in a conspicuous place on the leased premises and mailing a copy to the tenant. Once the notice has been posted, an affidavit is executed and the other service attempts are noted in the diary. A copy of the notice is to be placed in the rental file with a notation as to the date of service.
6. Advises Headquarters to begin an unlawful detainer action against the tenant who refuses to vacate.
7. Inspects the property after a completed unlawful detainer action to verify that the property has been vacated and left in an acceptable condition. If necessary, the region works with Headquarters to enforce any court judgment.
8. Prepares a detailed report with photos of any missing or damaged items. The report should include a description of any abandoned personal property, excessive debris, or hazardous materials.

C. If a property is vacated and rent is still owing, Headquarters may turn the delinquent account over to a private collection agency for further handling.

D. If the debt is uncollectible, Headquarters proceeds to write off the debt and makes appropriate entries into computer database.

11-8.5 Monitoring the Lease

The region shall be responsible for monitoring the lease during the tenant's occupancy. Monitoring shall include:

A. Acting as liaison between the tenant and WSDOT by answering questions and resolving any problems which arise.

B. Inspecting the leased premises as necessary to ensure compliance with lease terms.

C. Adjusting rental rates in accordance with lease provisions or Section 11-8.4.2.

11-8.6 Assignment of Lease

A. A tenant may make a written request for WSDOT approval to assign the lease to another party. Headquarters and the region jointly review the request and determine whether an assignment of the lease is appropriate, or if a new lease is necessary. The review should include a property inspection, a rental rate adjustment, if appropriate, an inspection of the property to determine if the present tenant is in compliance with the lease terms, and a credit check on the proposed new tenant.

B. Once the review is complete and determined to be acceptable, the region prepares an Assignment of Lease (DOT Form 263-004) or examines any other assignment form submitted by the requesting parties. Any assignment form other than an approved WSDOT form must be approved by Headquarters and the Attorney General and must include the following:

1. Release by the present tenant (Assignor).
2. Assumption by new tenant (Assignee).
3. Approval by WSDOT.
4. Approval by FHWA if the leased property is part of the National Highway System.
5. The assignee's address for notification and rental statement purposes.

C. Once the assignment form has been approved, the region secures the signatures of the old and new tenants and submits the assignment to Headquarters for further handling, together with a Property Inspection and Status Report.

D. Headquarters obtains the appropriate WSDOT signatures and secures FHWA approval of the assignment, if necessary. Once the assignment is fully executed, the original will be placed in Headquarters file and copies will be sent to the region, the assignor, and the assignee.

11-8.7 Termination of Lease

A. Leases may be terminated for the following reasons:

1. Expiration of the term of the lease.
2. Upon notice as provided in lease.
3. Noncompliance with the terms of the lease (default) after warning and notice as provided in the lease.
4. Notification of intent to terminate the lease as provided in the lease.

   Note: Prior to any lease termination requiring notice, care must be taken to ensure that all parties having any interest in the lease are identified and given notice.

B. To complete the termination process, the region:

1. Inspects the property to verify it has been vacated and the condition of the site conforms to the lease. If it has not been vacated, an unlawful detainer may be required.
2. Completes a Property Inspection and Status Report and submits it to Headquarters.
3. Updates the computer database as appropriate.

C. Upon receipt of the Property Inspection and Status Report from the region, Headquarters:

1. Reviews the report.
2. Ensures that the last month's rent is credited, if appropriate.
3. Requests payment of any rent due, refunds overpayments, or initiates collection actions, if necessary.
4. Closes lease file, unless collection action has been initiated.

11-8.8 Airspace Lease Specifics

11-8.8.1 Coordination

Since airspace leases involve the shared use of operating right of way and land use issues, a greater degree of coordination is required between Real Estate Services, Engineering, FHWA, and Local Governmental Agencies. Early involvement of all interested parties as well as communication between the region and Headquarters should facilitate a successful lease.

11-8.8.2 Rental Income

A. Income from airspace leases with effective dates after April 3, 1987, covering right of way in which federal funds participated in any phase of the project (preliminary engineering, right of way acquisition, or construction) is to be used as part or all of the state's portion of any project eligible for federal assistance under Chapter 1 of Title 23 United States Code. Any such income is to be deposited into two separate accounts (one state and one federal) in the same proportion as the state and federal participation in the project. Rental income is NOT to be commingled.

B. An airspace lease may be for consideration other than money under the following conditions:

   1. The airspace lease is used as part of a highway or transit project eligible under Chapter 1 of Title 23, United States Code, or is for a transportation purpose; or

   2. The airspace is used for public bicycle and/or pedestrian trails where:

      a. The separation of motor vehicle traffic from pedestrians, equestrians, or cyclists will materially increase motor vehicle safety.

      b. The tenant will construct and maintain the trail, at its sole expense, which shall offset the responsibility of the state to construct and maintain such facility.

11-8.8.3 Option to Lease

Where an airspace lease proposal involves a substantial investment in design and construction, and the proposal's affect on highway operation cannot be determined without investing in design, an Option to Lease may be used. This option would allow more time for engineering studies, plan preparation, securing financing and permits, etc. An option also:

A. Assures the optionee that they will be granted a lease in the future.

B. Keeps the property free of any further encumbrances.

C. Ensures that no other use of the property, except testing, will occur.

D. Establishes a predetermined monthly charge to cover WSDOT administrative and processing costs.

11-8.8.4 Radio Site Leases (Reserved)

11-9 Encroachments (Reserved)

11-10 Assessments Against State-Owned Lands

Real estate assessments on WSDOT property are processed by the regions as follows:

A. All assessment statements are mailed to the appropriate WSDOT regional office. The statements should include identification of the parcel or property.

B. The statements are reviewed to verify that the assessment is valid and that WSDOT owns the property being assessed.

C. Appropriate vouchers are prepared and processed for a group of assessments, if possible, for each assessing district or agency. Processing and payment must be done in a timely manner so as to avoid penalty or late charge fees.

11-11 Facilities (Reserved)

11-12 Staff Housing

Rental of state-owned housing to state employees is the same as for rental of any other improved property. A state employee who rents a state-owned rental may not be obligated to pay LET if it is determined that the state benefits from the employee residing on the leased premises.

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12-0 Acronyms

ADRAP	Assistant Director, Relocation Assistance Program
AG	Attorney General
DRES	Director, Real Estate Services
DS&S	Decent, Safe, and Sanitary
EIS	Environmental Impact Statement
FHA	Federal Housing Administration
FHWA	Federal Highway Administration
NPO	Non-Profit Organization
PPO	Personal Property Only
RCW	Revised Code of Washington
REIS	Real Estate Information System
RES	Real Estate Services
RHP	Replacement Housing Payment
WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation

12-1 Policy

12-1.1 Purpose

To establish uniform procedures in relocation assistance that will assure legal entitlements and provide fair and consistent treatment to persons displaced by projects administered by the Washington State Department of Transportation (WSDOT).

12-1.2 Authority

A. Title 42, United States Code (USC), 4601-4665 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970), Public Law 91-646, Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (1987 Amendments), Public Law 100-17, 101 Stat. 246-256.

B. The Revised Code of Washington (RCW), Chapter 8.26.

C. The Washington Administrative Code (WAC), Chapter 468-100.

12-2 Responsibility

12-2.1 Applicability

A. The provisions of this chapter are applicable to any person who is displaced by any project (see Section 12-4.1, Definitions, Displaced Person).

B. Parcel files are not closed unless all payments have been made and all assistance and assurances have been provided to eligible displaced persons as required by this chapter.

12-2.2 Assurances

A. WSDOT assures that:

1. The relocation program is realistic and adequate to provide orderly, timely, and efficient relocation of displaced persons as provided in this chapter. Relocation assistance problems will be analyzed in a relocation plan for the project. In hardship cases or for protective buying, an analysis of the relocation problems involved and a specific plan to resolve such problems will be provided for each parcel or for the project.

2. Within a reasonable period of time prior to displacement, comparable replacement dwellings will be available or provided for displaced individuals and families as defined in this chapter. Displaced persons will receive written notice providing the address of at least one and preferably three comparable replacement(s) used in determining the replacement housing entitlements.

3. To the greatest extent practicable, no person lawfully occupying real property will be required to move from the acquired dwelling, business, farm or NPO operation, without being provided a written assurance at least ninety (90) days prior to the earliest date by which they could be required to vacate the property.

B. WSDOT assures that it will not proceed with any construction project within right of way acquired by the agency, UNLESS:

1. Relocation payments and services are provided as set forth in this chapter.

2. The public is adequately informed of the relocation payments and services available as set forth in this chapter.

12-2.3 Organization

A. WSDOT administers the Relocation Assistance Program for all its own acquisitions and may supervise such program with respect to local agencies engaged in acquisitions for local road and transportation projects in accordance with this chapter.

B. The primary responsibility for the administration and supervision of the program rests with the Assistant Director, Relocation Assistance Program (ADRAP).

C. One or more individuals whose direct responsibility is to provide relocation assistance are assigned to each right of way project where relocation will occur. These individuals may have responsibility for more than one project where reasonable.

12-2.4 Transaction Reviews

12-2.4.1 Acquisitions

12-2.4.1.1 Region Review

The Region Relocation Supervisor:

A. Verifies that the Relocation Eligibility Report has been completed and transmitted to Headquarters.

B. Verifies that the Relocation Assistance Brochure has been delivered to displaced persons.

C. Verifies that all the proper notices have been given to displaced persons.

D. Assures that all appropriate relocation entitlements have been calculated and presented to the displaced person(s).

E. Determines the need for any revisions or recomputations of relocation entitlements.

F. Verifies that all computer entries have been made.

12-2.4.1.2 Headquarters Review

A. Verifies that all necessary and appropriate documentation has been obtained and transmitted to Headquarters.

B. Reviews and approves all entitlement calculations submitted by region relocation agents.

C. Approves relocation claims and authorizes payments.

D. Verifies that all computer entries have been made.

E. Assures that advance payments are properly deducted from total relocation entitlement.

F. Assures that any rent owing to WSDOT is deducted from relocation entitlements, if possible.

12-2.4.2 Condemnations

12-2.4.2.1 General

After a parcel is turned in for condemnation, all contact with the owner should be through the owner's attorney and the State's Assistant Attorney General assigned to the case unless direct contact is authorized by the attorneys or the displaced person. The region makes all appropriate contacts with tenants. Relocation efforts should continue with the displaced person unless directed to cease by either attorney or the displaced person.

12-2.4.2.2 Possession and Use Agreements

During the course of negotiations, an owner may sign a possession and use agreement whereby the grantor provides WSDOT with physical possession of the parcel in exchange for payment of just compensation. Although full legal ownership of the parcel is still held by the grantor until final negotiation or court settlement, a replacement housing payment can be made by using a "Provisional Payment Agreement" (see Chapter 13).

12-2.4.3 Post-Judgment

12-2.4.3.1 General

As soon as possible after a verdict or judgment is entered in a condemnation case, the region takes appropriate action to complete the relocation process for the eligible displaced person and takes physical possession of the property acquired, if not already done.

12-2.4.3.2 Moving Expense

Moving expense payments are handled and processed as for any other displaced person.

12-2.4.3.3 Price Differential

A price differential previously calculated and delivered to the displaced person by written notice may have to be adjusted when the verdict or judgment differs from the determination of value used as a base for the prior computation. Such judgment will be treated as an administrative settlement for purposes of calculating the actual price differential to be paid to the displaced person.

A. In cases of stipulated judgments, the Attorney General's Office will usually be able to provide enough information to determine the acquisition price.

B. In case of trial to the court or a jury, the result may be a single dollar figure with no explanation, and the basis for a price differential is derived from that plus any additional information that may be gleaned from the State's appraisal or from the Attorney General's report.

C. In computing price differentials based on judgments (or administrative/stipulated settlements), the following areas are considered:

1. The State's "acquisition price" is determined in the same manner as described under the definition of acquisition price in Section 12-4.1.

2. In the case of a partial taking or carve out, where the verdict or administrative/ stipulated settlement or the voucher does not identify the amount being added for land versus improvements and/or for damages or if no insight is available from the State's attorney or others directly involved, it is necessary to use the proportions as determined from the State's appraisal and apply them to the amount of the settlement that is in excess of the State's appraisal.

3. In either case, once an award is made a revised entitlement letter will need to be prepared and delivered to the displaced person.

12-2.5 Records

A. The department shall maintain adequate records of its relocation assistance activities in sufficient detail to demonstrate compliance with the statutes and regulations.

1. The official repository for relocation records shall be in Headquarters, this includes documents for LPA relocation work. LPA originals will be returned to region staff upon completion of the project so they can be returned to the acquiring agency.

2. The records shall be retained in Headquarters for the record retention period established by the department.

3. All original records or copies with original signatures, shall be submitted to Headquarters for retention. Where original are delivered to others, legible copies should be submitted.

B. Many of the relocation records will be kept on various relocation forms. A list of relocation forms is provided in Chapter 13 of this manual.

C. Certain records are also maintained in the computer data-base.

D. Relocation records will be available for inspection in Headquarters during regular business hours. Requests for inspection of records shall be made in writing to the ADRAP.

12-2.6 Annual Reports

An annual statistical report is submitted every year for the preceding federal fiscal year. The report is forwarded to the Office of Right of Way, Relocation Assistance Division, through the FHWA Division Administrator not later than October 30.

12-3 General Policy

12-3.1 General Operation

A. Relocation Assistance — Relocation assistance offices are located in Headquarters and each region office. Additional offices (field offices) may be provided and operated in accordance with Section 12-5.2.

B. Personal Contacts — Personal contacts with displaced owners and tenants are made by Relocation Agents in accordance with the provisions of this manual. The agent makes detailed entries in the Diary of Right of Way Activities covering every contact, meeting, etc., with any party in interest. These entries are made as soon as possible after each contact to assure accuracy.

C. Preliminary Investigation — Preliminary investigation of project impacts on displaced persons and availability of replacement housing is made by the Relocation Agent in accordance with Section 12-4.2.

D. Relocation Plans — Relocation plans are developed in accordance with Section 12-4.2.

E. Moving Cost Payments — Moving cost payments are determined in accordance with Sections 12-6.5 through 12-9.

F. Replacement Housing Payments — Replacement housing payments are determined and administered in accordance with Section 12-6.3.

G. Closing Expenses — Closing expenses (incidental purchase expenses) are reviewed and reimbursed by the department in accordance with Section 12-6.3.

H. Increased Interest Costs — Increased interest costs are computed and paid in accordance with Section 12-6.3.

I. Ninety (90) Day Assurance — Owners and tenants are not required to move without being provided a written assurance at least ninety (90) days prior to the earliest date by which they could be required to vacate the property as specified in Section 12-5.4.5.

J. Occupancy of the Displacement Site after WSDOT Acquires Possession — Rental to the original displaced owner or tenant beyond 90-days as covered in the signed rental agreement is allowed only with prior written approval by the DRES (See Chapter 11 of the Right of Way Manual).

K. Notice to Vacate — A written notice to vacate the property (i.e. 30-Day Notice to Vacate) is provided to the displaced person by Property Management as specified in Chapter 11.

L. Protective Rent — If a tenant vacates the property before the department acquires possession, it may be appropriate for the department to pay protective rent to prevent the property from being rented to another tentant. The acquisition department will administer the protective rent program. Both the acquisition agent and relocation agent need to coordinate activities. A relocation agent should notify the acquisition department if a tentant wishes to vacate prior to WSDOT possession. See Chapter 6 for procedures.

M. Appeal Procedures — Appeal procedures are available to displaced persons as described in Section 12-5.5.

N. Mobile Home Occupants — Mobile home occupants are offered replacement housing payments as regulated by Section 12-8.

O. Forms — A list of all forms pertinent to the Relocation Assistance Program are included in Chapter 13 of this manual.

P. Duplicate Payments Prohibited — Displaced persons are not entitled to receive any other payment which substantially duplicates the general purpose and effect of those payments described in this manual.

Q. Letter Withdrawing Offer — If a decision is made by the department to withdraw an offer to purchase from a property owner, and relocation is involved, the acquisition agent should forward a copy of the letter withdrawing the offer to the relocation department (see Chapter 6 of the Right of Way Manual for Acquisition procedures).

12-3.2 Project Regulations

A. Payments Authorized C Relocation assistance payments to eligible persons may be authorized when all of the following conditions have been met:

1. Program Approval and Authorization — When there has been approval of a program or project and authorization to proceed has been issued.
2. Person Relocated — When in fact a person has been or will be relocated by the project or from the right of way approved for such project.
3. Lawful Costs — When relocation costs are lawfully incurred.
4. Costs Recorded as Liability — When relocation costs are recognized and recorded as a liability of the acquiring agency in the accounts of such agency.
5. Project Agreement Executed — After the project agreement (if required) has been executed for the particular project involved.
6. Federally Assisted Right of Way Projects — After federal participation in relocation assistance costs has been authorized.

B. Interest Acquired — The type of interest acquired does not affect the eligibility for relocation assistance payments provided the interest acquired is sufficient to cause displacement. In like manner, the terms under which a tenant is occupying property does not affect eligibility provided the tenant is actually displaced by the project and the occupancy is lawful.

C. Losses Due to Negligence — Losses due to negligence of the relocated person, the person's agent, or employees are not eligible for payment.

D. Deductions From Relocation Payment — The relocation agent must deduct the amount of any advance relocation payment from the relocation payment(s) to which the displaced person is otherwise entitled. Similarly, the agent must deduct from relocation payments any rent that the displaced person owes WSDOT provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by Section 12-3.2. (See Chapter 11 for property management procedures.) WSDOT will not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

E. Availability of Replacement Housing — No person to be displaced shall be required to move from the acquired dwelling unless at least one comparable replacement dwelling (defined at Section 12-4.1) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

1. The person is informed of its location;
2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
3. Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

F. Federally Assisted Projects — The costs of providing relocation payments and services required by this chapter are eligible for federal participation in the same manner and to the same extent as other project costs.

G. Administrative Costs — Only those costs directly chargeable to a given transportation project are charged to such project.

H. Refusal of Assistance — A displaced person can refuse relocation services and still be eligible for payments. There is no requirement that a displaced person accept the services of WSDOT in relocating if not desired. However, it is necessary that the replacement dwelling meet decent, safe, and sanitary requirements and that the displaced person make application within the time limits to qualify for replacement housing payments.

I. Property Not Incorporated Into Right of Way — If relocation is made necessary by an acquisition for the project, even though the property acquired is not incorporated within the final right of way, monetary relocation entitlements may be approved by the ADRAP. The Region Relocation Supervisor must provide a detailed memorandum (with map) setting forth the circumstances for the request to the ADRAP. A copy of the Appraisal and Determination of Value is also requested.

12-3.3 Disaster Project Regulations

A. General — The requirement that no person shall be required to move unless at least one comparable is made available may be waived in any case where it is demonstrated that a person must move because of:

1. A major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or
2. A presidentially declared national emergency; or
3. Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

B. Basic Conditions of Emergency Move — Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph A of this section, WSDOT shall:

1. Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and
2. Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and
3. Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

C. Tenure of Occupancy

1. Individuals and families whose homes have been damaged or destroyed by a major disaster and who have not been able to reoccupy their homes by the start of negotiations for the parcel may be considered to be in constructive occupancy and funds may be authorized for relocation payments to such individuals and families, provided that location approval for the project had been given by the Secretary of WSDOT prior to the major disaster.

D. Computation of Replacement Housing Payment for a 180-Day Owner Who Purchases

1. Fair Market Value of Acquired Residence — The fair market value of damaged or destroyed residences is as of the usual date of valuation for a highway project.

2. Computation — The replacement housing payment is the amount, if any, which when added to the amount for which WSDOT acquired the damaged or destroyed dwelling equals the lesser of:

   a. The actual amount of the owner paid for a decent, safe, and sanitary dwelling; or

   b. The amount determined by WSDOT as necessary to purchase a comparable dwelling.

3. Duplicate Payments — Any proceeds received for payment of damages to the displaced person's residence as a result of the major disaster, from any source, such as flood insurance or cancellation of a portion of a Small Business Administration (SBA) loan is deducted from the replacement housing payment for which the displaced person is eligible.

12-3.4 Contracting Procedures

The department normally maintains an established organization adequately staffed and equipped to administer the relocation assistance services and payments required by this manual.

A. The department may enter into agreements with other public agencies pursuant to RCW 39.34 when requested to provide services to such agencies pursuant to RCW 8.26.095.

B. Where department employees are directly engaged in project activities or provide technical guidance, consultation, training, or otherwise work directly on specific projects to assist employees of another public agency to accomplish relocation assistance operations or in escalating such project operations to an acceptable level of performance, the costs of such project activity may be charged to such project in accordance with Chapter 1 of this manual.

C. WSDOT monitors relocation assistance activities conducted by any public agency (or individual, firm, association, or corporation under contract to such public agency) engaged in the acquisition of right of way for public works projects in which federal funds will participate. These agencies are required to notify WSDOT in advance of acquisition for federal aid projects in order for WSDOT to perform as the “Lead Agency” as required by RCW 8.26.

12-4 General Relocation

12-4.1 Definitions

A. Acquired — For the purpose of this chapter, “acquired” means WSDOT obtained legal possession of the real property. The date of such possession is the date on which final payment for the property is made available to the owner(s) or to the court. Where WSDOT has obtained early possession under a Possession and Use Agreement, legal possession is the time specified in the pertinent document or, if not specified in such document, upon making payment as required by such document.

B. Acquisition Price — For the purpose of computing replacement housing payments, the “acquisition price” is the cost WSDOT pays for the property acquired. The amount is determined from the Real Property Voucher. The amount of any administrative settlement is included and remains a part of the final settlement. Any amount paid by the displaced

person for salvage rights is considered an expenditure by the displaced person toward the purchase of replacement housing. The amount of the "final settlement" in the case of a donation is considered to be fair market value. For court award cases or cases involving an administrative settlement, the amount of the just compensation is analyzed to determine acquisition price.

C. Agency — The federal agency, state agency, or person that acquires real property or displaces a person.

D. Alien Not Lawfully Present in the United States — An alien not "lawfully present" in the United States is defined in Public Law 104-193 and includes:

1. An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Naturalization Act and whose stay in the United States has not been authorized by the United States Attorney General; and

2. An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violated the terms and conditions of admission, parole or authorization to stay in the United States.

E. 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.

F. Business — Any lawful activity, except a farm operation, that is conducted:

1. Primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

2. Primarily for the sale of services to the public; or

3. Primarily for outdoor advertising display purposes when the display must be moved as a result of the project; or

4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

G. Comparable Dwelling — A dwelling which is:

1. Decent, safe, and sanitary as described in Section 12-6.2; and

2. Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a comparable dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a comparable dwelling is functionally equivalent to the displacement dwelling, reasonable trade-offs for specific features may be considered when the comparable unit is "equal to or better than" the displacement dwelling. Only in unusual circumstances may a comparable dwelling contain fewer

rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling; and

3. Adequate in size to accommodate the occupants; and
4. In an area not subject to unreasonable adverse environmental conditions; and
5. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment; and
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as out buildings, swimming pools, or greenhouses; and
7. Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance; and
8. Within the financial means of the displaced person (see Definition of Financial Means).

H. Contribute Materially — The term "contribute materially" means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as WSDOT determines to be more equitable, a business or farm operation:

1. Had average annual gross receipts of at least $5,000; or
2. Had average annual net earnings of at least $1,000; or
3. Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

I. Displaced Person

1. General — Any person who moves from real property or moves personal property from real property (which is required for a project or program undertaken by the state or a local public agency):
   a. As a direct result of the acquisition of such real property in whole or in part; or
   b. As a direct result of the issuance of a written order to vacate, whether or not the property is subsequently acquired; or
   c. As a direct result of a written notice of intent to acquire; or
   d. A residential tenant displaced as a direct result of a voluntary transaction by the real property owner.
2. Persons Not Displaced — The following is a nonexclusive listing of persons who do not qualify as <u>displaced persons</u> under this part:
   a. A person who moves before the initiation of negotiations unless WSDOT determines that the person was displaced as a direct result of the program or project; or
   b. A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

c. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

d. A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by WSDOT in accordance with any guidelines established by the federal agency funding the project. There are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary, and the tenant must be reimbursed for all reasonable out-of-pocket expenses including moving expenses and increased housing costs incurred in connection with the temporary relocation.

   It is also noted that any person who disagrees with WSDOT's determination that said person is not a displaced person under this part may file an appeal in accordance with Section 12-2.5; or

e. An owner-occupant who moves as a result of an acquisition described as follows:

   (1) Voluntary transactions that meet all of the following conditions:

      (a) No specific site or property needs to be acquired, although WSDOT may limit its search for alternative sites to a general geographic area. Where WSDOT wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly.

      (b) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

      (c) WSDOT will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

      (d) WSDOT will inform the owner of what it believes to be the fair market value of the property.

   (2) Acquisitions for programs or projects undertaken by an agency or person that receives federal financial assistance but does not have authority to acquire property by eminent domain, provided that such agency or person shall:

      (a) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

      (b) Inform the owner of what it believes to be fair market value of the property.

   (3) As a result of the rehabilitation or demolition of the real property. ***Note:*** The displacement of a tenant as a direct result of any acquisition, rehabilitation, or demolition for a federal or federally assisted project is subject to this part; or

f. A person whom WSDOT determines is not displaced as a direct result of a partial acquisition; or

g. A person who, after receiving a notice of relocation eligibility (described at Section 12-5.4), is notified in writing that a displacement will not be required. Such notice shall not be issued unless the person has not moved and WSDOT agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

h. An owner-occupant who voluntarily conveys property after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, WSDOT will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or

i. A person who retains the right of use and occupancy of the real property for life following its acquisition by WSDOT; or

j. A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under Pub. L. 93-303; or

k. A person who is determined to be in unlawful occupancy prior to the initiation of negotiations or a person who has been evicted for cause, under applicable law.

l. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation entitlements.

J. Dwelling — The place of permanent or customary and usual abode. It includes a single family dwelling, a one-family dwelling unit in a multifamily building, a dwelling unit of a condominium or cooperative housing project, or any other dwelling unit, such as a rental sleeping room, a mobile home, etc. Also see definition for "Place of Permanent or Customary and Usual Abode."

K. Farm Operation — Any activity conducted solely or primarily for production of one or more agricultural products or commodities (including timber) for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. See definition of "contributing materially."

L. Financial Means — The following criteria are used in determining financial means:

1. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in Section 12-6.3, all increased mortgage interest costs as described at Section 12-6.3, and all incidental expenses as described at Section 12-6.3, plus any additional amount required to be paid under Section 12-6.4, Housing of Last Resort.

2. A replacement dwelling rented by an eligible displaced person is considered to be within that person's financial means if, after receiving rental assistance under this part, the monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at Section 12-6.3.

3. For a displaced person who is not eligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within a person's financial means if WSDOT pays that portion of the monthly housing costs of a replacement dwelling which exceed 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under Section 12-6.4, Housing of Last Resort.

M. Mortgage — Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the state of Washington together with the credit instruments. A real estate contract is considered to be a mortgage for the purposes of this chapter. A bona fide mortgage is a mortgage which is a valid lien on the real property for not less than 180 days prior to the initiation of negotiations.

N. Moving Expense Payments — The amount necessary to pay or reimburse an eligible displaced person, business, farm or NPO operation for certain expenses related to moving their personal property located on the displacement property.

O. Nonprofit Organization (NPO) — A corporation, partnership, individual, or other public or private entity registered as an NPO with the office of the Secretary of State, engaged in a business, professional, or instructional activity on a nonprofit basis, requiring fixtures, equipment, stock in trade, or other tangible property for operating of the business, profession, or institutional activity on the premises and exempt from paying federal income taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).

P. Owner — For purpose of determining eligibility for replacement housing entitlements only, an "owner" is one who, with respect to a displacement dwelling:

1. Owns, legally or equitably, the fee simple estate, a life estate, a lease with at least 50 years to run from the date of acquisition of the property, or other proprietary interest in the property; or
2. Is the contract purchaser of any of the foregoing estates or interests; or
3. Has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law. In such case, the tenure of ownership (not occupancy) of the succeeding owner shall include the tenure of the preceding owner.
4. An interest in a cooperative housing project which includes the right to occupy a dwelling.

Q. Personal Property Only (PPO) — A move of personal property from property acquired for right of way or project purposes where there is not a need for a full relocation of a residence, non-residential operation (vacant land), business operation, farm operation, or nonprofit organization (NPO) from the acquired property.

R Place of Permanent or Customary and Usual Abode (Permanent Place of Residence) — A dwelling, legally used and occupied as living quarters or residence by a person or family with apparent intent to continue such use and occupancy.

S. Replacement Housing Payment (RHP) — Any one or certain combinations of payments authorized to be paid to eligible displaced persons to enable such displaced persons to obtain replacement housing. There are five types of authorized payments, as follows:

1. Incidental Purchase Expense — The amount necessary to pay or reimburse an eligible displaced person for certain actual costs incurred by the displaced person incidental to the purchase of an eligible replacement dwelling, including but not limited to recording fees, escrow fees, title insurance premiums, appraisal fees, credit report fees, and transfer taxes. (Does not include prepayment of any expenses. See Section 12-6.3.)
2. Increased Mortgage Interest Payment — The amount, as determined by WSDOT, necessary to compensate an eligible displaced person for an increased interest cost required to obtain a mortgage for the purpose of purchasing an eligible replacement dwelling. In addition, such finance charges as may be imposed as a condition to the making of such a mortgage.
3. Price Differential — That amount, in addition to the just compensation paid by WSDOT, which is necessary to enable an eligible displaced person to purchase an eligible replacement dwelling.
4. Rent Supplement — The amount, determined by WSDOT, necessary to compensate an eligible displaced person for the increased cost of leasing or renting an eligible replacement dwelling.
5. Down Payment Assistance — The amount necessary to enable an eligible displaced person to make a down payment (including eligible incidental purchase expenses) on the purchase of an eligible replacement dwelling. Payment is limited to the maximum rent supplement calculated for the displaced person. A 180-day owner occupant is not eligible for this type of payment.

T. Salvage Value — The probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

U. Small Business — A business having not more than 500 employees, working at the site being acquired or permanently displaced by a program or project which site is the location of economic activity. Sites operated solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of reestablishment.

V. Tenant — An individual(s) or family who pays rent or is in lawful possession of a dwelling or rental sleeping room without interest in fee title to the real property.

W. Uneconomic Remnant — The term "uneconomic remnant" refers to a remainder of the owner's real property which WSDOT has determined will have little or no value or utility to the owner after the department's acquisition of a portion of the tract.

X. Unlawful Occupancy — A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by WSDOT to be a squatter who is occupying the real property without the permission of the owner and otherwise has no legal right to occupy the property under state law.

Y. Utility Costs — These are limited to expenses for heat, lights, water, and sewer.

12-4.2 Relocation Planning

12-4.2.1 Preliminary Plans

Detailed information and analysis of displacements may be required at various stages prior to development of a Relocation Project Plan as required by Section 12-4.2.2. Some examples of preliminary stages are Environmental Impact Statements (EIS), Environmental Assessment, Discipline Report, and so on. Information included in the document or report may be obtained by visual inspection of the area and from readily available secondary or community sources. The document or report usually requires the following information:

A. Estimate of households to be displaced, including the family characteristics (e.g., minorities, income levels, the elderly, large families, owners or tenants, etc.).

B. Divisive or disruptive effect on the community, such as separation of residences from community facilities or separation of neighborhoods.

C. Impact on the neighborhood and housing where relocation is likely to take place.

D. An estimate of the businesses to be displaced and general effect of business dislocation on the economy of the community.

E. A description of housing available for sale in the area and the ability to provide replacement housing for the types of families to be displaced.

F. A description of special relocation advisory services that will be necessary for identified unusual conditions.

G. A description of the actions proposed to remedy insufficient replacement housing including, if necessary, housing of last resort.

H. Results of consultation with local officials, social agencies, and community groups regarding the impacts on the community affected.

12-4.2.2 Project Relocation Plans

12-4.2.2.1 General Requirements

A. Negotiations are not initiated on any project which will cause the relocation of any person until the Region Relocation Supervisor has submitted a Relocation Project Plan to the ADRAP for review and approval.

B. Prior to submitting a request for funds (request for work order authorization) the Region Relocation Supervisor prepares a relocation plan in coordination with personnel assigned to prepare funding estimates. Such plan is submitted to the ADRAP for review and approval. Upon approval by the ADRAP, a copy of the approved plan is returned to the Region showing such approval.

C. The relocation agent should deliver a Relocation Brochure to displaced person at the time the agent is collecting the information on the occupancy survey for the preparation of the relocation plan. If appropriate, the relocation agent may also deliver a General Notice of Relocation Rights letter. If the timing is not appropriate it should be given out closer to the initiation of negotiations in accordance with Section 12-5.4.

12-4.2.2.2 Project Relocation Plan Contents

A Relocation Project Plan covers the methods and procedures by which the needs of every individual to be displaced will be evaluated and correlated with available decent, safe, and sanitary (DS&S) housing within those individuals' financial means. The input for the plan

is developed from the Occupancy Survey prepared by the Region Relocation Agent on each acquisition parcel requiring the displacement of persons or personal property from the project. The plan contains a tabulation of data and narrative. Contact Headquarters for a sample of an appropriate relocation plan.

A. General

1. The plan should contain a statement of "Assurances" that the department will inform the public of relocation payments and services that will be available and that the department will provide such payments and services. In addition, this statement will advise that no person lawfully occupying real property will be required to move from the acquired dwelling, business, farm or NPO operation without being provided a written assurance at least ninety (90) days prior to the earliest date by which they could be required to vacate the property. No person to be displaced from a residential dwelling shall be required to move unless at least one comparable replacement dwelling is made available.

2. A description of the project including information on limits, area location, purpose of the project, type and extent of work, and any other pertinent information deemed appropriate by the plan author.

3. A brief discussion of the number of parcels to be acquired and the resulting number of displacements by type (residential owner, residential tenant, business, and/or personal property only).

B. Inventory of Individual Needs — An inventory of the characteristics and needs of individuals, families, businesses, and/or personal property to be displaced. Photos of the subject dwelling should be included as an attachment or incorporated into the plan.

1. This inventory is based upon a complete occupancy survey. Recent census and other valid survey data obtained from city and county planning departments, redevelopment agencies, precinct registers, etc., may be used to assist in preparing the inventory. The survey process is carried out to the depth necessary to fully identify the characteristics and needs of the displaced person.

2. Housing needs are determined by analysis of needs for decent safe and sanitary replacement housing. This does not necessarily mean a replacement in kind for the dwellings to be acquired. It means providing DS&S housing that meets the needs of the occupants being displaced. The financial means of the displaced person are also considered and discussed in the report.

C. Inventory of Available Housing — A reliable estimate of comparable replacement housing currently available on the housing market for the general project area.

1. The types of buildings and the adequacy of supply of DS&S housing as related to the needs of the persons or families to be relocated. Further discussion of type of neighborhood, proximity of public transportation, commercial shopping areas, and distance to any pertinent social institutions, such as church, community facilities, etc., is desired. The use of maps, plats, charts, etc., is useful at this stage. This estimate is developed to the extent necessary to assure that the relocation plan can be expeditiously and fully implemented.

2. Data on the availability of housing is gathered by any reasonable method such as: updating and using data previously gathered; using sources such as multiple listing bureaus, individual brokers, real estate management companies, associations of landlords, rental agencies; and direct contact with apartment owners or managers,

local planning offices, other governmental offices which regulate construction of homes and other buildings, and public utility companies which continuously study population growth and/or trends. Newspaper advertising and other printed resources should also be utilized.

3. The inventory of available housing should summarize:
   a. The amount, type, characteristics, and cost of housing available at the time of the study.
   b. The monthly (or annual) rate of "turn over" in the sale and rental markets.
   c. The rate at which new housing is being added.
4. A projection of the amount of housing which will become available within the lead time during which acquisition and right of way clearance will take place.

D. Analysis of Inventories — An analysis and correlation of the above information is used to develop a relocation plan which:
   1. Discusses the various relocation problems, which may include cases of low income and minority groups.
   2. Provides an analysis of current and future federal, state, and community programs in the project areas, and nearby areas, which could affect the supply and demand for housing.
   3. Provides an analysis of said problems and offers potential resolutions to these problems.
   4. Estimates the amount of lead time required and demonstrates its adequacy to carry out a timely, orderly, and humane relocation program.

E. Sources of Information — Identification of the names/sources from which information was obtained and relied upon for the report.

F. Project Relocation Assistance Office — A brief discussion addressing the intended means by which displaced persons and adjacent occupants will have reasonable access to adequately staffed offices and how such offices will be operated, staffed, and equipped to provide relocation assistance services. This discussion should encompass the need or lack of need for project relocation assistance offices, the hours of operation, the location of said office and the resources to be available at said office.

G. Alternate and/or Last Resort Housing Needs
   1. Discuss the impact of the project on available replacement housing within the financial means of the displaced person.
   2. Explain that either:
      a. There is an adequate, continuing supply of replacement housing available within the financial means of the displaced person, or
      b. A "Last Resort Housing Plan" will be prepared on a case-by-case basis or is incorporated into this report.

H. Maps, plats, charts pictorial, and/or graphic data which further illustrates the needs of the displaced person or describes the availability or lack of availability of suitable replacement housing may be included with the report. Approved right of way plans are not included as a part of this report but are available in the appropriate region and Headquarters offices.

I. Include a summary of total estimated relocation project costs, i.e. residential, business, and personal property.

12-5 Relocation Advisory Services

12-5.1 General

WSDOT has established and carries out a Relocation Assistance Advisory Services Program so that displaced persons will receive uniform and consistent services and payments regardless of race, color, religion, sex, or national origin. These services are intended, as a minimum, to assist persons in relocating to decent, safe, and sanitary housing that meets their needs. Services are provided by personal contact by the Region Relocation Agent. If personal contact cannot be made, the Relocation Agent documents the file to show that reasonable efforts were made to achieve personal contact.

12-5.1.1 To Whom Provided

Relocation assistance advisory services are offered to:

A. Any "displaced person" as defined in Section 12-4.1.

B. Any adjacent occupant when WSDOT determines that such person or persons is caused substantial economic injury because of the acquisition.

C. Any person who, because of the acquisition of real property used for the person's business or farm operation, moves from other real property used for a dwelling, or moves personal property from such other real property.

12-5.1.2 Minimum Advisory Services

A. The Relocation Agent provides relocation assistance advisory services to include such measures, facilities, or practices as may be necessary or appropriate to:

1. Determine the need, if any, of displaced persons for relocation assistance.
2. Explain the services available, the types of relocation payments, and the eligibility requirements to receive relocation payments and to assist in completing any application or other required form.
3. Provide current information on a continuous basis regarding the availability, prices and rentals of comparable decent, safe, and sanitary housing, and of comparable commercial properties and locations for displaced businesses.
4. Assist a person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location.
5. Supply information concerning federal and state housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons.
6. Advise displaced persons that no payments received under the Uniform Act shall be considered as income for the purposes of the Internal Revenue Code of 1954 which has been redesignated as the Internal Revenue Code of 1986 or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing assistance.
7. Provide other advisory services to displaced persons to minimize hardships to such persons in adjusting to a new location.

8. Offer to provide transportation to displaced persons to search for or view replacement housing.

B. The amount and extent of the advisory services are administered on a reasonable basis commensurate with the needs of the displaced person.

12-5.1.3 Exchange of Information With Other Agencies

Relocation Agents maintain personal contact and exchange information with other local agencies providing services useful to persons who will be relocated.

A. Such agencies may include but are not limited to social welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Department of Housing and Urban Development, Veterans Administration, and Small Business Administration.

B. Contact is maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors.

C. Contact is maintained with the Department of Housing and Urban Development and Veterans Administration relative to properties owned by those agencies that may be available for sale.

12-5.2 Project Relocation Assistance Offices

12-5.2.1 General Criteria

A. When the volume of work or needs of the displaced person are such as to justify the establishment of a project relocation office, such an office will be established and located reasonably convenient to public transportation or within walking distance of the project.

B. The determination whether or not to establish a project relocation office is made by the region on an individual project basis based on criteria which include, but are not limited to

1. The number of displaced persons to be served.
2. The distance and availability of transportation between the project and the Region Real Estate Service Office.
3. The nature of the relocation problems in terms of income level, displaced person's needs and characteristics, and special replacement housing problems.

12-5.2.2 Information Available at Project Office

The following information will be made available for the displaced person of each project at both the region office and/or the project office:

A. Copies or reprints of any published public announcements addressing relocation assistance services and payments.

B. Current lists of suitable replacement dwellings available to displaced persons without regard to race, color, religion, sex, or national origin. Lists may come from a variety of sources including newspaper listings, apartment directories, multiple listing services, real estate and property management companies, etc.

C. Current lists of comparable commercial properties and locations for displaced businesses.

D. Current data for such costs as security deposits, closing costs, typical down payments, interest rates, and terms.

E. Maps showing the location of schools, parks, playgrounds, shopping, and public transportation routes in the area where applicable.

F. Schedules and costs of public transportation where applicable.

G. Copies of the department's brochure explaining its relocation program.

H. Copies or excerpts from local housing, building, and/or occupancy codes.

I. Other information of value to displaced persons in the particular area.

12-5.2.3 Office Hours

Project offices will be open during hours convenient to the persons to be relocated including evening hours when needed. Hours of operation will be addressed in the relocation plan.

12-5.3 Public Information

12-5.3.1 General Hearings

In order to assure that the public has adequate knowledge of the department's Relocation Assistance Program, such program and its related procedures are discussed at all public hearings. The Region Administrator may require the presence of RES personnel at any hearing in order to assure that the Relocation Assistance Program is adequately explained.

A. Brochures, pamphlets, or flyers describing the relocation program are made available, without cost, to all persons attending such hearings. The brochures provide the address of the department's region office where copies of the department's regulations implementing the Relocation Assistance Program may be obtained.

B. If there are extensive relocation problems, which cannot be covered at typical or regular hearings on highway location and other engineering matters, a separate public hearing on relocation assistance will be held, as arranged by the Region Real Estate Services Manager.

12-5.3.2 Corridor Hearings

A. Right of Way personnel may be called upon by the Region Administrator to assist with the development of needed information and/or for the presentation of information at any corridor hearing. Such information may include, but is not necessarily limited to the following data:

1. Regional and community growth including general plans and proposed land use, total transportation requirements, and status of the planning process.
2. Public facilities and services including religious, health and educational facilities, public utilities, fire protection, and other emergency services
3. Community cohesion including residential and neighborhood character and stability, highway impacts on minority and other specific groups and interests, and effects on local tax base and property values.
4. Displacement of people, businesses, and farms including relocation assistance, availability of adequate replacement housing, and economic activity (employment gains and losses, etc.).
5. The estimated costs of the alternatives considered.
6. Responses to questions or problems raised during the previous hearings.

B. Discussion on relocation assistance includes but is not necessarily limited to:

1. The availability of relocation assistance services, eligibility requirements, and payment procedures.

2. The estimated number of individuals, families, businesses, farm, and nonprofit organizations that are to be relocated by each of the alternatives under consideration at the hearings.

3. An estimate of the availability of decent, safe, and sanitary replacement housing, within the financial means of the individuals and families affected; a projection of the availability to the anticipated year of right of way acquisition; any alternative plans considered for re-housing displaced persons; and assurance that housing needs of the displaced persons will be met.

12-5.3.3 Highway Design and/or Access Hearings

The discussion on relocation assistance at the design or combined hearing supplements the information contained in the Relocation Assistance Program Brochure. Such discussion on relocation includes but is not necessarily limited to:

A. Assurance that no person is required to move from a residence required for a public works project or program unless a comparable replacement dwelling is available or provided for any person meeting the criteria for a displaced person.

B. The eligibility requirements and payment procedures including:

   1. Eligibility requirements and payment limits for moving costs.

   2. Eligibility requirements and payment limits for replacement housing payments.

   3. Appeal procedures.

C. The services available under the state's relocation assistance advisory program, the address and telephone number of the local relocation office, and the name of the relocation agent in charge.

D. An estimated number of dwelling units presently available to meet replacement housing requirements.

E. An estimate of the time necessary for relocation and the number of dwelling units meeting the replacement housing requirements that will become available during that period.

12-5.4 Written Notices

12-5.4.1 General

A. Appropriate relocation assistance notices will be provided to each residential occupant (family or individual); non-occupant owner of an occupied dwelling unit; business or farm owner or operator; or owner of personal property that may be directly or constructively displaced by the program or project. A notice is not furnished where there is no displacement.

B. Written notices will be presented in letter format using the basic formats found in Chapter 13. The letters may be revised to reflect appropriate information for any specific relocation situation.

C. Where certain relocation notices fulfill statutory requirements, the displaced person will be requested to sign a copy of the letter as evidence that the notice has been given and received. If the displaced person refuses to sign the notice, the relocation agent should note the refusal on the copy of the notice and transmit this copy to Headquarters for inclusion into the official file. The relocation agent should also note the refusal in the Diary. The ADRAP may request further effort be made to present any notice letter to the displaced person(s).

D. A non-occupant owner is considered, for purposes of the Relocation Assistance Program, to be displaced whenever there will be a displacement of persons or personal property from the property he owns.

E. These letters are partially intended to provide the displaced person with a written reference to certain basic information that will be or has been explained in a personal contact by a qualified representative of the department. No letter can answer all the questions in a given case. Much importance is placed on the detailed description in the relocation brochure and on the expertise of the Relocation Agent handling the case.

12-5.4.2 Notice of Intent to Acquire

A. If the Director of Real Estate Services authorizes the establishment of eligibility for relocation entitlements prior to the initiation of negotiations for acquisition of a parcel, a Notice of Intent to Acquire, along with the Relocation Assistance Program Brochure, may be furnished to displaced persons. When a Notice of Intent to Acquire is issued, for purposes of this chapter, the date of initiation of negotiations for the parcel is considered to be the date of such notice.

B. This notice is not issued prior to authorization for the initiation of negotiations on the project or prior to authorization for acquisition of individual parcels in the case of protective buying or hardship acquisition.

C. The notice advises owners and occupants concerning the following:

1. The area of their eligibility for and the requirements to receive moving and replacement housing payments.
2. That any occupant contemplating moving should, to ensure eligibility for moving and replacement housing payments, notify the department before moving.
3. The anticipated date of actual initiation of negotiations.
4. How additional information pertaining to relocation assistance payments and services can be obtained.

D. If a Notice of Intent to Acquire is furnished to a property owner, it is also furnished to any tenants within fifteen (15) days and the owner is simultaneously notified of such action by furnishing such owner with a copy of the tenant's notice.

12-5.4.3 General Notice of Relocation Rights

A. This is a notice that is required by statute.

B. The letter format for this notice will depend on the type of displacement that will occur. An appropriate notice letter, to be selected from the formats found in Chapter 13, must be provided to the person(s) to be displaced by the project.

C. Delivery of the General Notice letter can occur either of two ways:

1. This notice can be presented to persons to be displaced at the time the relocation agent makes the initial contact to gather information for the Relocation Plan. A Relocation Assistance Program Brochure should be provided to the displaced person at the same time. This method may not be appropriate if the project will not be constructed for a while.
2. This notice can be presented to persons to be displaced at or near the initiation of negotiations by either the relocation agent or upon request, by the acquisition agent.

D. The notice must include the following information:

1. A statement that the person(s) may be displaced from a public project and a general description of the types of relocation payments, the basic conditions of eligibility and how the payments can be obtained.
2. A statement that the person(s) to be displaced will be given reasonable advisory assistance including referrals to replacement properties, help in filing claims and other necessary assistance.
3. Advice that the person(s) will not be required to move without at least 90 days written assurance and that a person displaced from a residential dwelling will not be required to move until at least one comparable replacement dwelling is made available to the displaced person(s).
4. A statement that the person(s) to be displaced have a right to appeal department determinations regarding relocation eligibility or entitlement amounts.

E. The relocation agent must attempt to secure the signature(s) of the person(s) to be displaced to acknowledge receipt of the notice or provide a statement on the notice that the person(s) refused to sign.

12-5.4.4 Relocation Assistance Program Brochure

This "notice" provides additional and more detailed information about the Relocation Assistance Program. It should be provided to each displaced person at the time the General Notice is provided. There are three brochures; one for Residential displacements, one for Business/ Farm/NPO displacements, and one for PPO displacements. WSDOT brochures should not be distributed by LPA's on non-WSDOT projects. Generic brochures for their use have been created and are available on our RES web page. The "receipt" on the General Notice also states the brochure has been provided.

12-5.4.5 Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance

A. This is a combination of two notices that are required by statute.

B. This notice advises the displaced person(s) that they are now eligible for relocation assistance and entitlements because initiation of negotiations has begun. This notice should be provided to each displaced person as soon as possible after the date of initiation of negotiations or, if possible, at the same time of said initiation.

C. The department also uses this notice to provide displaced persons with a description of the relocation entitlements, which they are eligible to receive as well as other information as follows:

1. For a 180-Day Owner Occupant:
   a. Date of initiation of negotiations
   b. Date the displaced person first occupied the parcel
   c. Amount of Maximum Price Differential
   d. Addresses of Available Comparable Dwellings
   e. How the Price Differential was calculated
   f. Other Replacement Housing Entitlements
      (1) Increased Mortgage Interest Costs
      (2) Incidental Purchase Expenses

g. Moving Entitlements

h. How to claim the entitlements

i. 90-Day Assurance (***Note:*** **This is a required notice.)**

(1) States the earliest date an occupant could be required to move,

(2) The 90-day period cannot begin until the department has made at least one comparable replacement dwelling available to the displaced person.

j. The Right of Appeal

2. For a 90- to 179-Day Owner Occupant or a 90-Day Tenant:

a. Date of Initiation of Negotiations

b. Date of Occupancy by the Displaced Person

c. Amount of Maximum Rent Supplement

d. Addresses of Available Comparable Dwellings

e. How the Rent Supplement was calculated

f. Down Payment Assistance Option

g. Moving Entitlements

h. How to claim entitlements

i. 90-Day Assurance (***Note:*** **This is a required notice.)**

(1) States the earliest date an occupant could be required to move,

(2) The 90-day period cannot begin until the department has made at least one comparable replacement dwelling available to the displaced person.

j. The Right of Appeal

3. Business, Farm, or NPO:

a. Actual Move Costs

(1) Personal Property Move Expenses

(2) Other Incidental Move Expenses

(3) Equipment Disconnect and Reconnect Expenses

b. Re-establishment Costs

c. Fixed Payment Entitlement Amount In Lieu if selected in place of actual costs and re-establishment

d. 90-Day Assurance (***Note:*** **This is a required notice.)**

(1) States the earliest date an occupant could be required to move,

e. Right of Appeal

4. Personal Property Only:

a. Actual Move Costs

(1) Personal Property Move Expenses

b. 90-Day Assurance (***Note:*** **This is a required notice**.)

(1) States the earliest date an occupant could be required to move their personal property.

D. At the time of delivery of this notice, the relocation agent should also provide the displaced person with a W-9 form to complete in accordance with procedures set forth in Chapter 10 of the Right of Way Manual.

12-5.4.6 Other Notices

A. Notice of Revised Maximum Price Differential

1. If an owner occupant does not or is not actively seeking replacement housing at the time the Notice of Eligibility is delivered, it may become necessary to recalculate the price differential entitlement because the offered replacement dwelling(s) may not be available any longer. If the price differential must be recalculated, a revised notice must be presented to the displaced person.

2. If the owner occupant receives an administrative settlement for the displacement dwelling which is more than the price of the best available comparable on which the entitlement was calculated, a revised notice of the maximum price differential should be presented stating that the displaced person is no longer entitled to a price differential payment as the acquisition price of the displacement property is greater than the asking price of the best available comparable. In accordance with Chapter 6, the relocation agent should receive notification from the acquisition agent if an administrative settlement is given.

3. If an owner occupant decides to become a tenant, a revised notice should be presented which states that the maximum entitlement for a rent supplement in this case would be $5,250.

B. Notice of Revised Maximum Rent Supplement

1. If a tenant does not or is not actively seeking replacement housing at the time the Notice of Eligibility is delivered, it may become necessary to recalculate the rent supplement entitlement because the offered replacement dwelling(s) may no longer be available. If the rent supplement must be recalculated, a revised notice must be presented to the displaced person.

12-5.5 Appeals

A. General — Any person aggrieved by a determination as to eligibility for, or the amount of, any payment authorized by Chapter 8.26 RCW and these operating rules and procedures, may have such determination reviewed and reconsidered by WSDOT. See Chapter 468-100-010 of the Washington Administrative Code (WAC).

B. Preliminary Review Procedures

1. Request for Review — A request for review must be filed with the ADRAP, within sixty (60) days following written notification of WSDOT's determination on the person's claim. A different eligibility period may be approved by the ADRAP on an individual case basis. Review proceedings are initiated upon receipt by the department of a statement or letter from the displaced person or the displaced person's representative.

2. Form of Statement — No specific form or format is required; however, the displaced person's statement or letter, at a minimum, includes:

a. Date of statement.

b. Name of the displaced persons.

c. Project title.

d. Parcel number.

e. An explanation of what the displaced person is claiming; all facts, reasons, and any supporting evidence as to why the displaced person believes the claim should be paid; or why the displaced person is otherwise aggrieved.

f. Address, telephone number, and signature of the displaced person or the displaced person's attorney.

3. Response to Preliminary Review — If the ADRAP finds that the displaced person's request for a review is unclear or insufficient, the ADRAP may require the displaced person to correct, clarify or amend the request or provide additional information. If the displaced person fails to make any required corrections, etc., within a reasonable specified time, the ADRAP should respond to the original request according to its merits. This response shall notify the aggrieved person of the right to an Administrative Hearing.

4. Request for Administrative Hearing — The aggrieved person shall have 30 days from the date of the ADRAP response to the original review within which to request, in writing, a formal hearing before a Relocation Review Board.

C. Relocation Review Board Hearing

1. The ADRAP assembles the Relocation Review Board which consists of the Director, Real Estate Services, the Director of Environmental and Engineering Programs, and the Region Administrator of the Region where the displacement has occurred.

2. The ADRAP:

a. Notifies the aggrieved person of the time and place of the Relocation Review Board hearing at least twenty (20) days in advance of the hearing.

b. Advises the aggrieved person to provide any additional documents, written statements or other evidence in support of their claim.

c. Submits all explanations, documentation, evidence, etc., to the Review Board for consideration prior to the hearing.

3. The Relocation Review Board:

a. Holds a meeting to analyze all evidence in the request for review, and renders its decision which may be to either accept or reject, in whole or in part, the claim, or may authorize an alternative agreement with aggrieved person.

b. Within ten (10) days after the conclusion of the meeting, notifies the aggrieved person of the Board's decision. If the decision is a rejection of the claim, in whole or in part, provides the aggrieved person with twenty (20) days in which to file a formal appeal.

(1) If the aggrieved person accepts the decision, or fails to file a formal appeal within twenty (20) days, the case is closed, provided all payments have been made and other services have been provided.

(2) If the aggrieved person files a formal appeal, the case is referred immediately for a formal hearing before a Hearing Officer.

D. Formal Hearing Procedures — As soon as possible a formal hearing is scheduled and the appeal will be carried out under the provisions of WAC 468-100-010(9) through (16).

12-5.6 Civil Rights

A. The department takes affirmative action to ensure that replacement housing resources are, open to all races and sexes without discrimination. This is determined at the time the Relocation Agent is searching for available replacement housing. Potential replacement dwellings not considered "open housing" are not used as available housing.

B. The department fully informs displaced persons of procedures for hearing fair housing discrimination complaints.

1. The displaced person is advised of the department's procedure at the time of initial contact.

2. Upon receipt of a fair housing discrimination complaint, the Relocation Agent refers the displaced person to the Division of Equal Opportunity and Fair Housing, Department of Housing and Urban Development, or to the nearest area office of the Washington State Human Rights Commission.

C. The department fully informs displaced persons of their fair housing rights and options in selecting replacement housing in areas of their choice and the available assistance from the department in ensuring displaced persons that their fair housing rights are protected by the Washington State Human Rights Commission under Chapter 49.60 Revised Code of Washington in accordance with Title VIII of the Civil Rights Act of 1968 and the HUD Amendment Act of 1974. This information is given to the displaced person at the time of initial contact.

D. The department, to the extent possible, assists displaced persons in ensuring against discriminatory practices in the purchase and rental of residential units on the basis of race, color, religion, sex, or national origin.

12-6 Residential Relocation Entitlements

12-6.1 Eligibility

A. Individuals and families displaced from a dwelling acquired for a highway project or program are eligible for replacement housing payments and moving payments in addition to the advisory services described in Section 12-5.

B. The type of Replacement Housing Payments for an individual or family depends on the type and length of occupancy.

1. 180-day Owner — A person who owns and occupies the displaced dwelling for at least 180 days prior to initiation of negotiations would be eligible for a price differential or a rent supplement.

2. 90- to 179-day Owner — A person who owns and occupies the displaced dwelling for at least 90 days but less than 180 days prior to initiation of negotiations would be eligible for a rent supplement or down payment assistance.

3. 90-day Tenant — A person who rents and occupies the displaced dwelling for at least 90 days prior to initiation of negotiations would be eligible for a rent supplement or down payment assistance.

C. The displaced individual or family is not required to relocate to the same occupancy (owner or tenant) status and has certain options regarding their status.

1. A 180-day owner may elect to become a tenant and receive a maximum rent supplement of $5,250.00.
2. A 90- to 179-day owner or 90-day tenant may elect to become owners and receive down payment assistance.

D. Only one Replacement Housing Payment is authorized for each dwelling unit except in case of multi-family occupancy of a single family dwelling.

12-6.2 Decent, Safe, and Sanitary Standards

A. Local Codes — A decent, safe, and sanitary dwelling is one which conforms with all applicable provisions for existing structures that have been established under state or local building, plumbing, electrical, housing, and occupancy codes and similar ordinances or regulations.

B. Minimum Standards — In those cases where local codes do not exist, do not address, or are less restrictive than the minimum standards listed hereinafter, the following minimum housing/dwelling standards shall apply:

1. Water — Such dwelling unit, excluding a rental sleeping room, has a continuing and adequate supply of potable safe water.
2. Kitchen — Such dwelling, excluding a rental sleeping room, has a kitchen or an area set aside for kitchen use, which contains:
   a. A sink in good working condition and connected to hot and cold water and an adequate sewer system.
   b. Utility service connections and adequate space for the installation of a stove and refrigerator.
3. Heating System — Such dwelling unit or rental sleeping room has an adequate heating system in good working order, which will maintain a minimum temperature of 70 degrees Fahrenheit in the living area.
4. Bathroom Facilities — Such dwelling unit or rental sleeping room has a bathroom, well lighted and ventilated and affording privacy to a person within it, containing a lavatory basin and bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush toilet, all in good working order and properly connected to a sewage disposal system. For rental sleeping rooms, also provides a lockable bathroom door if such bathroom is separate from the sleeping room.
5. Electric System — Such dwelling unit or rental sleeping room has an adequate and safe wiring system for lighting and other electrical services.
6. Structurally Sound — Each building used for dwelling or rental sleeping room purposes is structurally sound, weather-tight, in good repair, and adequately maintained.
7. Egress — Each building used for dwelling or rental sleeping room purposes has a safe, unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multi-dwelling building has access either directly or through a common corridor to a means of egress to open space at ground level. In multi-dwelling buildings of three stories or more, the common corridor on each story has at least two means of egress.

8. If the displaced person is handicapped, the replacement dwelling shall be adequate in terms of access and livability with respect to the person's limitations.

C. Exceptions — The ADRAP may grant exceptions to decent safe and sanitary standards when requested in writing by the displaced person. Such exceptions are limited to items and circumstances that are beyond the reasonable control of the displaced person to adhere to the standards. Approved exceptions do not affect the computation of the replacement housing payment.

12-6.3 Replacement Housing Payments

12-6.3.1 180-Day Owner Occupant

12-6.3.1.1 Replacement Housing Payments for 180-Day Owner Who Purchases

A. General

1. A displaced owner-occupant may receive payments, the combined total of which may not exceed $22,500 for the additional cost necessary to:

   a. Purchase replacement housing (also referred to as Price Differential).

   b. Compensate the owner for the loss of favorable financing on the existing mortgage in the financing of replacement housing (also referred to as "Increased Mortgage Interest Costs").

   c. Reimburse the owner for expenses incidental to the purchase of replacement housing (also referred to as "Incidental Purchase Expense.")

2. The displaced owner-occupant is eligible for such payments provided:

   a. The displaced owner is in occupancy at the initiation of negotiations of the acquisition of the real property, or at the time a written notice is given stating WSDOT's intent to acquire the property by a given date.

   b. Such ownership and occupancy has been for at least 180 consecutive days immediately prior to the earlier of:

      (1) The initiation of negotiations.

      (2) The date the occupant vacates, if the displaced owner has been given a notice of intent to acquire.

   c. The property is acquired by WSDOT, or WSDOT issues an order to vacate even though the property is not acquired.

   d. The displaced owner purchases and occupies a decent, safe, and sanitary dwelling within the time period specified in Section 12-6.2.

   e. For the purposes of d. above, a dwelling is considered to be purchased by the displaced owner when:

      (1) An existing dwelling is acquired by the displaced owner; or

      (2) The displaced owner purchases a life estate in a retirement home or contracts for extended residence in a limited care or full care facility that provides medical and residential services to persons unable to live independently and provide their own care. The actual cost is the entrance fee plus any other monetary commitments to the home, not including periodic service charges; or

(3) The displaced owner relocates and/or rehabilitates a dwelling which the displaced person owns or acquires. If the replacement dwelling selected by the displaced owner does not meet the "decent, safe, and sanitary" criteria or lacks "major exterior attributes," the cost to correct such deficiencies is eligible to the extent that the sum of the cost of the replacement dwelling and the cost of correcting the deficiencies do not exceed the price differential based on comparable replacement properties. Major exterior appurtenances are explained in more detail later in this section. ***Note:*** Improvements to the replacement property beyond those reasonable and necessary to correct DS&S deficiencies are not considered in qualifying for replacement housing payments; or

(4) The displaced owner contracts for the construction of a new decent, safe, and sanitary dwelling on a site which the displaced person owns or acquires. Reimbursement is limited to only those costs necessary to construct a dwelling comparable to the one acquired. The cost of adding new features to bring the cost up to the maximum replacement housing amount is not eligible for reimbursement.

B. Price Differential

1. Amount of Payment

a. The price differential is the calculated amount of any difference between the acquisition price of the dwelling and the actual costs which the owner is required to pay for a decent, safe, and sanitary dwelling or the amount determined by WSDOT that would be necessary to purchase such a decent, safe, and sanitary comparable dwelling, whichever is less. The maximum price differential payment is calculated by using a Price Differential Report and Housing Comparison Worksheet.

b. If a displaced owner desires to enter into an assisted living situation, WSDOT will make a reasonable effort to accomplish the request. This will be treated as if the displaced owner is purchasing a "life estate"considering it is their intent to live out the rest of their life in a retirement or extended care facility. The price differential will be the amount of the calculated RHP and paid according to the HQ disbursement policy to the displaced owner or facility once an agreement is signed for the replacement living situation.

c. If the displaced owner desires to change dwelling status to a tenant, WSDOT makes
a reasonable effort to accomplish the request. The rent supplement is computed in accordance with Section 12-6.3.3.1, except that the base monthly rent is the economic rent of the acquired dwelling. The maximum rent supplement to an owner who chooses to become a tenant is $5,250.

2. Amount of Payment to Occupant With a Partial Ownership

a. When a single family dwelling is owned by several persons, but occupied by only some of said owners, the maximum price differential entitlement is calculated as if all owners occupied the dwelling. The occupant(s) would then be required to spend all of their proportionate share of the acquisition payment plus the full amount of the calculated price differential to receive the maximum price differential.

b. If unusual circumstances create an undue hardship on the displaced occupant(s) with partial ownership, other solutions may be provided if approved by the ADRAP. Any such solution would be treated as Housing of Last Resort.

c. If the displaced owner-occupants do not purchase and occupy a decent, safe, and sanitary dwelling, they are entitled to receive a rent supplement payment provided they rent and occupy a decent, safe, and sanitary dwelling.

3. Calculation of Maximum Price Differential

a. Three Comparable Method — The asking price of at least three comparables are analyzed to determine the replacement housing payment. The analysis is not a mere averaging but a correlated conclusion based on the most comparable available dwelling that is as good as or better than the dwelling to be acquired. Less than three comparables may be used for this determination when sufficient comparables are not available on the market. The Relocation Agent in the "Remarks" section of the Housing Comparison Worksheet explains the reasons leading to the use of less than three comparables.. Selection of comparables and computation of payment is made by a qualified employee.

b. Adjustments to Asking Price of Comparables — An adjustment is made to the asking price of the selected comparables if justified by local market data. An example of this situation might be where a surplus of dwellings are available for sale in the area from which the comparables are selected and the "typical" dwelling sells for 5 percent below the asking price. The price differential calculation should reflect this 5 percent decrease. However, if an adjustment is made to the comparable used in determining the displaced person's entitlement and the displaced person(s) cannot acquire the comparable for the reduced amount, the price differential must be adjusted to compensate for the actual price paid, but not to exceed the unadjusted asking price upon which the calculation was based. If a dwelling is obviously overpriced in comparison to other comparables, it is not used in the replacement housing computation.

c. Major Exterior Attributes — The replacement dwelling used in computing the replacement housing payment must be comparable to the living unit acquired. When the comparable replacement dwelling used in computing the replacement housing payment is similar except that it lacks a major exterior attribute such as a garage, an outbuilding, a swimming pool, etc., the value of such items is subtracted from the acquisition cost of the displacement dwelling.

d. Mixed Use Property, Multifamily Property, or Lot Larger than Typical — If the displacement dwelling is part of a property that contains another residential dwelling unit, and/or is part of a property that is partially used for non residential purposes, and/or is located on a tract of land that is larger than a site that is typical for residential purposes, only that portion of the property which is attributable to the residential use shall be considered as the acquisition cost when computing the price differential. Contact Headquarters for samples of appropriate applications of this provision.

e. Remainder offer — If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a remnant of the displacement dwelling site or a buildable residential lot, the agency may offer to purchase that remainder. If such an offer is made and the owner refuses to sell the remainder to the agency, the value attributable to that remainder, shall be added to the acquisition price paid for the displacement dwelling for purposes of computing the price differential.

C. Incidental Purchase Expenses — The amount of the incidental purchase expense payment is the amount necessary to reimburse the displaced owner for the actual cost incurred incidental to the purchase of the replacement dwelling, not including prepaid expenses such as purchaser's advance payment into a reserve account for payment of future taxes, insurance, etc. These regulations pertain solely to incidental expenses in connection with a displaced owner's acquisition of a replacement dwelling.

1. Incidental purchase expenses may include the following items if normally paid by the buyer:

   a. Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings, or plats and charges paid incidental to recording.

   b. Lender's, FHA, or VA appraisal fees.

   c. FHA or VA application fees – limited to amount necessary to purchase best comparable.

   d. Certification of structural soundness when required by the lending agency, FHA, or VA.

   e. Credit report.

   f. Lender's title policy or abstract of title, limited to outstanding balance of old mortgage on the displacement dwelling or the new mortgage, whichever is less.

   g. Escrow Agent's fee/Settlement fee – limited to amount necessary to purchase best comparable.

   h. Housing Inspections when buyer pays.

   i. Sales or transfer taxes.

   j. Loan origination or assumption fees that do not represent prepaid interest – limited to the amount of the old or new mortgage, whichever is less.

2. No fee, cost, charge, or expense is reimbursable as an incidental expense which is determined to be a part of the debt service or finance charge payable as part of the increased mortgage interest payment.

3. Incidental purchase expenses are determined from a copy of the preliminary closing statement and verified from a copy of the final closing statement.

D. Increased Mortgage Interest Costs — The payment for increased mortgage interest cost is that amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. Increased mortgage interest costs are based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations.

1. The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling. In the event the person obtains a smaller mortgage than the mortgage balance(s) used to compute the "buy down" amount, the payment will be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance is that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

2. The payment is based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.
3. The interest rate on the new mortgage used in determining the amount of the payment cannot exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.
4. Purchaser's points and loan origination or assumption fees, but not seller's points, are paid to the extent:
   a. They are not paid as incidental expenses;
   b. They do not exceed rates normal to similar real estate transactions in the area;
   c. WSDOT determines them to be necessary; and
   d. The computation of such points and fees are based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.
5. The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known. The payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.
6. The payment is contingent upon an actual mortgage being placed on the replacement dwelling.

E. Total Payment — The total of the payments for purchase of replacement housing (Price Differential, increased interest, and incidental purchase expenses) cannot statutorily exceed $22,500 under this section. If the amount exceeds this maximum, last resort housing is required (see Section 12-6.4).

F. Owner Salvage — If the owner elects to purchase salvage rights to the acquired dwelling (in accordance with procedures described in Chapter 6), and relocates and occupies same, the price differential is computed as follows:

1. Dwelling is Decent, Safe, and Sanitary — The payment, if any, is the amount by which the costs to reestablish the salvaged dwelling exceed the acquisition price of the dwelling. The replacement housing costs include the costs of acquiring a new site or, if the dwelling is moved on to remainder land, the market value of the home site and other expenses incidental to relocating the dwelling and restoring it to a condition comparable to that before the move.
2. Dwelling is **Not** Decent, Safe, and Sanitary. — The payment is computed as shown above, plus the costs to make the replacement housing meet decent, safe, and sanitary standards.
3. Limitations — The payment computed under this subsection may not exceed the amount of the calculated maximum price differential.

12-6.3.1.2 Rent Supplement Payment for 180-Day Owner Who Rents

A. General — A displaced owner who is eligible for a replacement housing payment but who elects to rent a replacement dwelling is eligible for a rent supplement payment not to exceed $5,250.

B. Computation and Disbursement of Payment — The payment is computed and disbursed as provided for a 90-day tenant who rents. The base rental rate is defined as the economic rent. Computation for this payment is submitted on a Rent Supplement Report and the Housing Comparison Worksheet.

12-6.3.2 90- to 179-Day Owner Occupant

12-6.3.2.1 Replacement Housing Payments for 90-Day Owner Who Purchases

A. A displaced "90-day owner" is treated in the same manner as a 90-day tenant. The replacement housing payment would be calculated as a rent supplement.

1. The displaced owner may elect to use the rent supplement as a down payment to purchase a replacement dwelling.
2. The maximum calculated rent supplement cannot exceed the amount of a price differential if the owner had qualified as a 180-day owner.

B. The owner may salvage and relocate the displacement dwelling in the same manner as a 180-day owner. The Replacement Housing Payment would not exceed the calculated rent supplement.

C. If the displaced owner elects to rent for a period of time before purchasing a replacement dwelling, any rent already paid shall be deducted from the total calculated Replacement Housing Payment and only the remaining balance will be available as a down payment.

12-6.3.2.2 Rent Supplement Payment for 90-Day Owner Who Rents

A displaced 90-day owner, who elects to rent a replacement dwelling rather than purchase is eligible for a Replacement Housing Payment not to exceed $5,250.

12-6.3.3 90-Day Tenants

12-6.3.3.1 Rent Supplement for a 90-Day Tenant Who Rents

A. General — A displaced 90-day tenant is eligible for a rent supplement payment not to exceed $5,250 when the following conditions are met:

1. The displaced tenant is in occupancy at the initiation of negotiations for the acquisition of the real property, or is in occupancy at the time a written notice is given by WSDOT that it intends to acquire the property by a given date.
2. The displaced tenant has been in occupancy for at least ninety (90) consecutive days immediately prior to the initiation of negotiations or 90 days prior to the date of vacation, if a notice of intent to acquire was previously delivered.
3. The property is subsequently acquired or an order to vacate is delivered even though the property is not acquired.
4. The displaced tenant rents and occupies a decent, safe, and sanitary dwelling within one year from the date they move from the displaced dwelling.

B. Computation of Payment

1. Amount of Payment — A maximum rent supplement payment is calculated using a Rent Supplement Report and Housing Comparison Work Sheet. The payment is determined by multiplying 42 times the amount obtained by subtracting the base monthly rental and utility costs for the displacement dwelling from the monthly rent and cost of utilities, as determined below in item #2 – Utility Costs, for a comparable replacement dwelling.

2. Utilities Costs — Utilities include heat, light, water, and sewer. The relocation agent may use various sources to obtain this information including displaced tenant's receipts or monthly billings, a schedule or average cost provided by the respective utility company or a utility rate cost schedule if available, from the local housing authority. Schedules may be based upon number of adults and children in the family, approximate square footage of the dwelling, type of construction, etc. The data source must be identified under the Correlation and Conclusion portion of the Housing Comparison Worksheet. The method chosen to calculate utility costs must be utilized throughout the entire project (subject dwelling and comparables) to maintain consistent and uniform treatment of all displaced persons.

3. Base Monthly Rent — This amount is the lesser of:

   a. The actual monthly rent and average utilities at the displacement dwelling; or

   b. Thirty percent of the displaced tenant's average monthly gross income. The displaced tenant will need to furnish documentation (i.e. pay stubs, income tax return, bank statements, etc.) of income to support monthly income figures. If the displaced tenant refuses to provide accurate information regarding income, actual or economic rent is used; or

   c. The monthly amounts designated for shelter and utilities if the displaced tenant is receiving welfare assistance.

C. Change of Occupancy — Displaced Tenant Has Not Used Maximum Entitlement — A tenant, after initially moving to a decent, safe, and sanitary dwelling that does not maximize the calculated rent supplement, may relocate to another higher cost replacement dwelling within the one-year period, and may submit another claim for the amount in excess of what was originally claimed, but not to exceed the maximum rent supplement computed. The Relocation Agent makes a decent, safe, and sanitary inspection, confirms the new rental amount, and re-computes the rental supplement based upon the new rental amount. The claim is then processed in accordance with this manual.

12-6.3.3.2 Replacement Housing Payment for a 90-Day Tenant Who Purchases

A. General — A displaced tenant eligible for a rent supplement payment who elects to purchase a replacement dwelling is eligible to receive an amount, not to exceed the amount of the maximum rent supplement or $5,250 whichever is greater, to enable the displaced tenant to make a down payment toward the purchase of a replacement dwelling.

B. The full amount of the replacement housing payment must be applied to the purchase price of the replacement dwelling and related incidental purchase expenses, not including prepaid costs like taxes and insurance. Incidental expenses are inclusive of the total entitlement and cannot exceed the RHP. Since the displaced tenant usually lacks sufficient funds to make the down payment without these funds, an escrow arrangement is usually established.

12-6.3.4 Short-Term Occupants and Subsequent Occupants

Short-term occupants are persons who have been in occupancy less than ninety (90) days prior to initiation of negotiations. Subsequent occupants are persons who move into the displacement dwelling after initiation of negotiation, but prior to WSDOT's actual acquisition of the property. These displaced persons are entitled to relocation assistance advisory services and moving payments. However, if comparable DS&S housing is not available within the displaced person's financial means, which is determined to be 30 percent of the displaced person's gross monthly household income, these occupants will be eligible for all relocation assistance entitlements. Base monthly rent will be computed in accordance with Section 12-6.3 and displaced tenants will be required to provide the same required documentation.

12-6.4 Housing of Last Resort

12-6-4.1 Applicability

A. Basic Rights of Persons to be Displaced — Not withstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this section. WSDOT will not require any displaced person to accept a dwelling provided by WSDOT under these procedures unless WSDOT and the displaced person have entered into a contract to do so. A displaced person may choose other replacement housing and receive relocation entitlements if all requirements are met by the chosen replacement dwelling.

B. A number of situations may arise which require the application of this section:

1. The replacement housing payment will exceed the statutory monetary limits set forth as follows:

   a. $22,500 for 180-day owner occupants. This amount represents the sum of the price differential, increased mortgage interest, and incidental expenses.

   b. $5,250 for 90-day tenant occupant. This amount is the rent supplement.

2. There is no comparable housing available for sale in the entire project area.

3. Comparable housing is not available within the financial means of a displaced person who fails to meet the necessary length of occupancy requirements and does not, therefore, qualify for a replacement housing payment under Section 12-4. In other words, a less than 90-day occupant who cannot find comparable housing within their financial means is eligible for housing of last resort. ***Note:*** A dwelling is considered to be within a displaced person's financial means if the monthly rental rate does not exceed 30 percent of the displaced person's gross monthly income.

4. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance.

12-6.4.2 Methods of Providing Housing of Last Resort

A. Super Payments

1. In the case of a 180-day owner occupant whose total calculated replacement housing payment exceeds $22,500, usually the most economical and reasonable method of providing housing is by paying the entire calculated RHP towards the purchase of the replacement dwelling.

2. In the case of a 90-day occupant whose estimated replacement housing payment exceeds $5,250, usually a rent supplement payment is selected as the most economical method of providing replacement housing.

B. Rehabilitation or other modifications to an existing dwelling. This may be necessary to enable the dwelling to meet minimum DS&S standards and/or to provide additional bedrooms and other living area.

C. Purchase of land and improvements.

D. Construction of new dwellings.

E. Other methods of providing last resort housing, as approved by the ADRAP.

12-6.4.3 Last Resort Housing Plan

A. A last resort housing plan is required for all cases under this section, where it is estimated that replacement housing payments will exceed statutory limits or comparable DS&S housing is not available, etc.

B. Anticipated shortfalls of replacement housing, which will require construction or purchase and rehabilitation of existing housing should be addressed as early as the Environmental Impact Statement, if possible. This will allow for sufficient lead-time to ensure that replacement housing will be in place at the appropriate time. Last resort housing requiring super payment or other solutions must be addressed at the Relocation Plan Stage.

C. A memorandum from the region to the ADRAP describing the need for last resort housing and how it will be implemented is required no later than the time the relocation entitlement computations are submitted. If an option other than a super payment is recommended, the plan should be submitted for approval as soon as possible.

D. Relocation payments in excess of $22,500 for owner occupants and $5,250 for tenants must be coded properly in the "object of expenditures" portion of the Relocation Assistance Voucher. The payment must be broken out to show that the amount of payment within the statutory limits will be a non-last resort payment while the amount in excess of the limits would be shown as last resort.

12-6.5 Residential Moving Entitlements

A "displaced person" is entitled to receive a payment for moving the personal property located on the displacement property. The displaced person has the option of selecting a commercial move or a self move scheduled payment based on the number of rooms.

A. Multiple Occupancy of Dwelling Units — Two or more families occupying the same dwelling unit who relocate into separate dwelling units may elect to receive a commercial move or receive a self move, scheduled payment for each family. A self move, scheduled payment is based on the number of rooms actually occupied by each family plus community rooms utilized by each family.

B. Dwelling Salvage — When an owner acquires salvage rights to the acquired dwelling, the cost of moving that dwelling onto remainder or replacement land is not eligible for reimbursement as a part of the cost of moving personal property. However, if the displaced person chooses to use this dwelling as a means of moving personal property, the cost of moving personal property is considered eligible. Payment in these cases would be on a self move, scheduled payment basis.

C. Moving Advisory Assistance — The Relocation Agent encourages the displaced person to select a commercial move if there is any concern for the displaced person's ability to accomplish the move economically or safely by any of the other methods for which the displaced person is eligible. The agent points out the advantages of a commercial move including: professional labor, appropriate equipment, insurance against risks, professional management, and other factors as compared to the risks and other management problems present in any other method of moving.

12-6.5.1 Self Move, Scheduled Payment

A. Methods for Providing Scheduled Move Payments – A displaced individual or family is eligible to receive a moving expense and dislocation allowance according to the schedules shown below. The schedules apply to residential occupants of furnished or unfurnished dwelling units. In certain cases, it may be necessary to utilize both methods to calculate a scheduled move payment.

Moving Payment Schedules

1. Room Count Method

(For relocating personal property to be moved from a dwelling unit.)

Number of Eligible Rooms	Occupant Owns Furnishings	Payment to Occupant Who Does Not Own Furnishings
1	$450	$300
2	$600	$350
3	$750	$400
Additional Rooms	$150 each	$50

2. Additional Personal Property Method

Can be used when relocating personal property such as vehicles, RV's, boats, and trailers from the outside areas surrounding the residential dwelling unit.

Refer to Section 12-9.3(B)(2)(e) – Personal Property Only for the actual schedule.

B. Computation

1. The moving expense payment is computed on the number of furnished rooms in the dwelling unit (not to include bathrooms) plus basements, attics, garages, and "out buildings" if such spaces do, in fact, contain sufficient personal property to constitute a room or rooms.

2. The number of eligible rooms are documented by the Relocation Agent in the diary. This room count shall be approved by the Region Relocation Supervisor. Where unusual personal property situations exist, other rooms may be added as long as justification and documentation are provided and the Region Relocation Supervisor approves.

3. In cases where there are more than the typical number of operating or non-operating vehicles such as boats, trailers, etc. on a residential dwelling site, the cost to move these items can be calculated based on the move schedule provided in Section 12-9.3(B)(2)(e) – Personal Property Only.

C. Occupant Landlords — Occupant landlords may elect either move method but only for their own living unit. Landlords are considered to be business operators and as a business operator, such landlord may be eligible for the business moving payments with respect to the personal property furnishings in rental units.

D. In cases where the displacement is a sleeping room, such as a dormitory, and the displaced occupant has little personal property, the fixed payment is limited to $50.

E. Authorization — Before the move, the Relocation Agent and the displaced person complete the Moving Expense Agreement, which confirms the type of move and agreed upon amount (for a self move.)

F. Inspection — After the move, the Relocation Agent inspects the acquired dwelling and verifies that all the personal property has been removed. If sufficient quantities of personal property remain, which would constitute a room or rooms, the agent will reduce the number of rooms and adjust the payment accordingly. Diary entries are required to verify the results of the inspection and any adjustments to the moving expense payment.

12-6.5.2 Actual Moving Expenses by Commercial Mover

A. A displaced person may elect to have the department contract for and pay a commercial mover directly for the move of their personal property. A Moving Expense Agreement is required and completed so the move can be ordered. The Relocation Agent will advise the displaced person that any item considered to be irreplaceable or of exceptional value should be identified. The relocation agent should also obtain from the displaced person a value of the personal property to be moved. Special arrangements may need to be made for moving these items separate from the rest of the displaced person's property. A memorandum to the ADRAP describing the items requiring special handling is required along with the agent's recommendation on a moving method.

B. Other Expenses — Under certain unusual and/or unforeseen circumstances, it may be necessary to reimburse the displaced person for actual costs incurred during their move. The region submits a memorandum to the ADRAP explaining the situation and requests approval for reimbursement of certain expenses as follows:

1. Actual costs of temporary lodging and meals based on either actual receipts or using state per diem rates.
2. Actual costs of transportation of displaced persons to the replacement dwelling if necessary in special cases such as ambulance transport or special transport of disabled persons.

12-6.5.3 Self Move – Agent Estimate

A. This method can only be used in conjunction with sections 12-6.5.1 or 12-6.5.2 and is limited to those personal property items located outside of the residence. A relocation agent, after appropriate training, may under certain circumstances prepare a move cost estimate if the amount of the estimate does not exceed $5,000. This can occur where a residential occupant has an abundance of personal property items to be moved located outside of the dwelling unit.

1. The relocation agent works closely with the displaced person to develop a written and photo inventory of the personal property items to be moved.

B. Computation - The relocation agent computes the move cost estimate in accordance with the Washington State Utilities and Transportation Commission Tariffs Rate Schedule.

1. The computation and supporting documentation is sent to the ADRAP for review and approval.

12-6.6 Claiming Relocation Entitlements

12-6.6.1 Replacement Housing Claims

A. Requirements

1. 180-Day Owner — must purchase or rent and occupy a DS&S replacement dwelling within one year from the later of:
   a. The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in court; or
   b. The date the person moves from the displacement dwelling.
2. 90- to 179-Day Owner — must purchase or rent and occupy a DS&S replacement within one year from later of:

a. The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in court; or

b. The date the person moves from the displacement dwelling.

3. Tenant — must purchase or rent and occupy DS&S within one year from the date the person moves from displacement dwelling.

B. Disbursement of Replacement Housing Payments

1. RHP to 180-day owner occupant –Replacement housing payments can be disbursed in the following manner:

a. Escrow Option - This is accomplished by utilizing the Entitlement Instructions format found in Chapter 13. The relocation agent explains to the displaced owner (buyer), the seller, and the Escrow Agent, that:

1. The entire amount of WSDOT's payment is to be applied toward the purchase price and applicable closing costs associated with the purchase of the replacement dwelling as stated in the Entitlement Instructions.

b. Direct Payment to the Displaced Owner Option - This is accomplished by the following:

1. Reimbursement will be made directly to the displaced owner based on a **final** closing statement and submittal of all other supporting documentation (i.e. purchase & sale agreement, contract, receipts, etc.).

(a) If a displaced owner goes into an assisted living situation, the payment can be made directly to the displaced owner based on a signed resident agreement and copy of monthly charges along with any other supporting documentation (i.e. terms of care, breakdown of fees, etc.). Contact HQ for current policy on disbursement of funds for this situation.

2. Direct payment can be made to the Seller on behalf of the displaced owner based on a final closing statement and submittal of all other supporting documentation (i.e. purchase & sale agreement, contract, receipts, etc.). In this case, the relocation assistance voucher must be made out to both the displaced owner and the Seller.

(a) If a displaced owner goes into an assisted living situation, the payment can be made to the care facility on behalf of the displaced owner based on a signed resident agreement and copy of monthly charges along with any other supporting documentation (i.e. terms of care, breakdown of fees, etc.). In this case, the relocation assistance voucher must be made out to both the displaced owner and the care facility. Contact HQ for current policy on disbursement of funds for this situation.

2. RHP to 90-day occupant – The following types of replacement housing payments can be made:

a. Full payment to the displaced tenant if the RHP does not exceed $5,250.

b. A split payment with the initial payment of $5,250 made at the time the displaced tenant occupies a qualified replacement dwelling and the remaining entitlement amount paid six months later.

c. The entire amount of the rent supplement is applied toward down payment and closing costs for the replacement dwelling. Incidental expenses are inclusive of the total entitlement and cannot exceed the RHP.

1. Escrow Option – This is accomplished by using the Entitlement Instructions for Down Payment Assistance format found in Chapter 13. The relocation agent explains to the displaced tenant (buyer), the seller, and the Escrow Agent, that:

(a). The entire amount of WSDOT's payment is to be applied toward the purchase price and applicable closing costs associated with the purchase of the replacement dwelling as stated in the Entitlement Instructions

2. Direct Payment to the Displaced Tenant – This is accomplished by either of the following:

(a). Reimbursement will be made directly to the displaced tenant based on a final closing statement or equivalent documentation.

(b). Direct payment can be made to the Seller on behalf of the displaced tenant. In this case, the relocation assistance voucher must be made out to both the displaced tenant and the Seller.

C. The relocation agent completes a DS&S inspection to determine if replacement dwelling meets minimum standards to receive payment.

D. The relocation agent obtains all necessary documentation to substantiate the purchase price of the replacement dwelling, i.e. purchase and sale agreement or owner contract.

E. The relocation agent completes the actual calculation portion of the Price Differential Report or Rent Supplement Report, obtains necessary signature on form and sends to HQ with supporting documentation, i.e. purchase and sale agreement, rental agreement, and DSS report for approval prior to the submittal of the relocation assistance voucher for payment of the replacement housing entitlement.

F. The relocation agent obtains preliminary information from the escrow company or displaced person to determine eligible incidental closing costs, if any. Typically, this information is supplied to the relocation agent by the escrow company in the form of a HUD statement.

G. The relocation agent works with the displaced person and the lender when necessary to calculate the Increased Mortgage Interest Payment, if any, prior to closing.

H. The relocation agent prepares the appropriate vouchers which are used as the claim for payments, obtains displaced person's signatures, and secures agency signatures as provided on the Relocation Assistance Voucher form. The relocation agent should also obtain a W-9 form from the payee listed on the relocation assistance voucher, i.e. displaced person or vendor. This form should be obtained in accordance with the procedures set forth in Chapter 10.

I. The relocation agent submits all claims, on behalf of the displaced person with W-9 form, to Headquarters for approval and payment.

12-6.6.2 Moving Claims

A. The relocation agent and the displaced person should agree on the type of move to be selected by the displaced person prior to any move taking place.

1. If a self move is chosen, all parties should agree on room count, any additional compensation for personal property items to be moved as addressed in Section 12-6.5 and sign the Moving Expense Agreement.
2. If a commercial move is chosen, the relocation agent should obtain from the displaced person a value for the personal property to be moved and all parties should sign the Move Expense Agreement and submit it to Headquarters for ordering a mover.

B. The relocation agent is responsible for monitoring the residential move. This can be accomplished by an on-site visit or phone call the day the move begins. This will ensure the personalty is moved to the replacement site and will help to answer any questions that may arise the day of the move. The agent should document all monitoring activities in the diary.

C. When the move is complete, the relocation agent verifies that all personal property is removed from displacement property and verified to be at the replacement property. Verification can include photos of the vacated site and photos of the replacement site. The relocation agent should clearly document the on-site vacate inspection in the diary and enter the vacate date on the relocation voucher and in the RES data collection system. Upon such verification, the relocation agent prepares a claim (voucher), secures the appropriate signatures and submits the claim to Headquarters for processing and payment. The relocation agent should also obtain a W-9 form from the payee listed on the relocation assistance voucher, i.e. displaced person or vendor. This form should be obtained in accordance with the procedures set forth in Chapter 10.

D. In case of a commercial move, the relocation agent verifies that the move is complete.

1. If personal property is not removed and not abandoned, the relocation agent arranges to have said remaining property moved to the replacement property.
2. When the move is complete, invoices from the movers will be processed for direct payment to the movers. The relocation agent will need to obtain a W-9 form from the mover in accordance with the procedures set forth in Chapter 10.

E. The relocation agent assures that the displaced person makes a claim for move payment within 18 months after vacating the displacement property or receiving final payment, as appropriate. If the displaced person has not claimed moving entitlements, the relocation agent advises the displaced person of time remaining within which to file a claim.

12-6.6.2.1 Abandonment of Personal Property

If personal property is left at the displacement property, the relocation agent obtains a signed abandonment letter from the displaced person stating the displaced person is abandoning the personal property to the state and will not claim payment for moving said abandoned property. The amount of the abandoned property should be deducted from the displaced person's final move payment. (Refer to Chapter 13 for the RES form.)

12-6.6.3 Advance Payment Claims

12-6.6.3.1 General

As a general rule, moving cost payments and replacement housing payments are not made prior to completion of the move, and/or occupancy of the replacement dwelling. However, exceptions arise where, due to extenuating circumstances, the case merits special consideration. When these special cases arise, the ADRAP may authorize advance payment of relocation claims.

12-6.6.3.2 Advance Replacement Housing Payments

A. Advance payment may be necessary in cases where a displaced person is entitled to a replacement housing payment for a replacement dwelling but does not have sufficient funds with which to gain the right of occupancy prior to receiving relocation payments.

B. It is a good idea to make advance replacement housing payment for an owner occupant to an escrow agent. However, there may be certain situations where a displaced owner may elect to purchase a replacement dwelling on contract or pay the purchase price in full and may choose not to have the transaction closed in escrow.

C. Any displaced occupant must be in agreement with making payments directly to a 3rd party on their behalf. This is accomplished by having the displaced person sign the relocation voucher. The relocation agent must also clearly document in the diary that the payment is being made at the request of the displaced person. The relocation agent should obtain a W-9 form from the payee listed on the voucher in accordance with the procedures set forth in Chapter 10.

D. Requests for down payment and rent supplement advances are authorized where payment of the down payment or a rental deposit is a prerequisite to occupancy.

E. Requests for advanced replacement housing payments to owners are considered necessary when the funds made available directly to the displaced person from the department's acquisition of the property are insufficient to secure occupancy of a replacement dwelling.

F. The burden of proving the reasonableness and necessity of advance payments rests upon the displaced person requesting the advance payment.

12-6.6.3.3 Advance Moving Payments

When a displaced person is financially unable to pay the expenses involved in a move, a payment in advance of the move may be authorized. Payments reasonably necessary to cover the costs incidental to moving may be approved by the Regional RES Manager and paid in advance of the move. This advance payment may cover such incidental expenses as transportation, equipment and materials. Advance payment must be authorized by the ADRAP, acting upon a written request from the displaced person or region relocation agent. The amount of any proposed advance payment should not exceed 25 percent of the total move amount, unless there are unusual and extraordinary circumstances. The amount previously paid is deducted from any reimbursement for moving expenses which is due the displaced person upon completion of the move.

12-6.7 Processing and Payment of Claims

A. When the displaced person is ready to make claims for any or all of their relocation entitlements, including moving costs, price differential payments and associated incidental costs, rent supplement or down payment, the relocation agent provides the displaced person with appropriate forms for making the claim and secures necessary documentation from the displaced person, which includes a W-9 form.

B. Once these forms are signed by the displaced person, the claim (voucher), completed W-9 form, and associated documentation are transmitted to Headquarters for final approval.

C. Upon final approval by Headquarters, the ADRAP authorizes payment and the voucher is forwarded to the accounting section for processing and generation of the payment (warrant).

D. Both the region and Headquarters should monitor partial and advanced payments to assure that the displaced person does not receive payment in excess of their maximum entitlements.

E. Rent owed to WSDOT by a displaced person may be deducted from a relocation payment upon approval by the ADRAP. Any such deduction will be approved only if it will not preclude the displaced person from successfully relocating.

12-7 Business/Farm/NPO Relocation Entitlements

12-7.1 Eligibility

Displaced businesses, farms, and nonprofit organizations may become eligible to receive moving payments for the following:

A. Moving of personal property located within the acquired right of way.

B. Moving of personal property when the acquisition of real property used for a business or farm operation causes the displaced occupant to vacate a dwelling or other real property not acquired.

C. Reasonable and necessary moving payments for moving a property owner's business related personal property from a non owner occupied residential property.

D. One move, except where it is determined by the ADRAP that it is in the public interest to authorize more than one move.

12-7.2 Moving Payments

12-7.2.1 Actual Move Costs

A. A displaced business is entitled to payment for actual moving costs which are determined by the department to be reasonable and necessary. Actual moving costs include:

1. Transportation of personal property within a 50-mile radius.
2. Packing, crating, unpacking, and uncrating of personal property.
3. Disconnecting, dismantling, removing, reassembling, and reinstalling equipment, machinery, and other personal property.
4. Other incidental expenses including:
   a. Storage of personal property for a period not to exceed 12 months if such expense is determined to be reasonable and necessary. Storage must be pre-approved by the ADRAP.
   b. Insurance for the replacement value of the personal property during the move.
   c. Any license, permit, or certification required at the replacement site, which the displaced business had at the displacement location. The amount of this payment may be based on the remaining useful life of the existing license, permit, or certification.
   d. The replacement value of property lost, stolen, or damaged during the move.
   e. Professional services for planning, moving, and reinstalling the personal property Refer to Section 12-7.5 for a list of those professional services considered to be eligible for reimbursement by WSDOT.
   f. Relettering signs and replacing printed materials made obsolete by the move.

g. Direct Loss of Tangible Personal Property. This payment is the lesser of the fair market value of the personal property item for continued use at the displacement site or the estimated cost to move the item (not including storage) (see 12-7.2.1.1 for details).

h. The reasonable cost incurred in trying to sell an item that is not to be relocated.

i. Purchase of Substitute Personal Property. If an item of personal property is not moved, but is promptly replaced with a substitute item, this payment is the lesser of the cost to purchase this substitute item, including installation, or the estimated cost to move the item (see 12-7.2.1.2 for details).

j. Expenses for searching for a replacement location, including transportation costs, meals and lodging, time or labor costs, or fees paid to real estate agents or brokers. This payment shall not exceed $1,000.

k. Costs to secure move bids.

B. Options for Actual Cost Moves

1. Commercial Moves

a. The owner of a displaced business can request that WSDOT provide a commercial mover and pay that mover directly. The displaced business must indicate this option on the Moving Expense Agreement and cooperate with WSDOT by preparing an inventory and working with the Relocation Agent to prepare a moving specification. Contact Headquarters for samples of appropriate Moving Specifications.

b. Based on the inventory, moving specification, and any other information available, the Relocation Agent must obtain three bids, if possible, from qualified commercial movers. If a mover submits a bid, they will be compensated for their reasonable costs of preparing said bid. The bids, Moving Expense Agreement, inventory, Moving Specification, and region recommendation are then submitted to the ADRAP for review/approval.

2. Self Move – Negotiated Cost

a. The displaced business may elect to take full responsibility for the move of their business or farm operation. In this event, the displaced business must prepare an inventory of the personal property to be relocated and assist the Relocation Agent in the preparation of a Moving Specification. The relocation Agent then obtains three bids from qualified commercial movers. The region submits the bids with all supporting information to the ADRAP for review and approval with their recommendation to offer a payment to the displaced business for move costs.

b. The amount of the payment to be offered to the displaced business may not exceed the lowest acceptable bid submitted by a commercial mover. The Relocation Agent may negotiate a move cost lower than the lowest acceptable bid, taking into account the profit and overhead costs which the commercial mover includes in their bids.

c. In cases where the move cost appears to be $5,000 or less and the move is considered small and uncomplicated, the relocation agent can expedite the process and develop an agent move cost estimate in accordance with Chapter 12-7.4 of this Right of Way Manual. The displaced business, with the help of the

relocation agent, will prepare an inventory of the items to be moved. The region will submit the move cost estimate with all supporting documentation to the ADRAP for review and approval.

3. Self Move – Actual Cost

   a. If bids cannot be obtained due to time constraints or unreasonable circumstances (like fluctuating inventory), the displaced business may move their business using their own resources. The displaced business will be reimbursed their actual and reasonable moving costs as documented by paid receipts or other reasonable evidence of expenses.

4. Combination of Commercial and Self Move.

   a. A displaced business may elect to have a combination of both a commercial and a self move. The displaced business must coordinate with the Relocation Agent and the commercial mover to insure that all parties have a clear understanding of the respective roles and responsibilities. The relocation agent must closely monitor the move to confirm that each party is performing the correct tasks and duties.

C. Move Monitoring – The relocation agent is responsible for monitoring the move of the displaced business. This can be accomplished by an on-site visit or phone call the day the move begins. This will ensure the personalty is moved to the replacement site, will help to support the inventory, will help to identify those items not moved which could potentially lead to a claim for a direct loss of tangible or substitute personal property, and will help to answer any questions that may arise the day of the move. The agent should document all monitoring activities in the diary.

D. Upon completion of the move, the relocation agent should perform a post move inventory. This may include photos of the vacated site, photos of the replacement site, identification of equipment requiring disconnects and reconnects, and/or any special considerations used to calculate the move cost estimate. For example, the agent would need to substantiate that a crane was used to move a specialized piece of equipment if, in fact, the cost of crane was included in move cost estimate or bid. This post move inventory can be accomplished in the diary or as a separate document.

12-7.2.1.1 Actual Direct Losses of Tangible Personal Property

A. Eligible Items — Actual direct losses of tangible personal property are allowed when incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

1. The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless WSDOT determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

2. The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated moving cost is based on a distance of 50 miles.)

B. Evidence of Sale and Cost — The owner is required to document the sale prices, if any, and the actual reasonable cost of advertising and conducting a sale. The owner must provide WSDOT with a copy of the bills of sale or similar documents and copies of any advertisements, offers to sell, auction records, and other data supporting the bona fide nature of the sale.

C. Determination of Expenses and Losses — The region compares the amount of the loss (value for continued use) with the reasonable moving expense and recommends payment of the lesser amount in an explanatory memo addressed to the ADRAP.

D. Losses Due to Unsuccessful Sale and Abandonment — Whenever a bona fide sale is not completed because no offer is received for the eligible item and the item is abandoned, the amount of the eligible payment is the lesser of the fair market value of the item(s) for continued use at its location prior to displacement or the estimated moving expense irrespective of the cost to WSDOT for removing the item(s).

E. When personal property is abandoned with no effort being made by the owner to dispose of such property by sale, the owner is not entitled to moving expenses or losses for the items involved.

F. The cost for removal of abandoned personal property will not be considered as an offsetting charge against other payments that the displaced person is entitled to receive. However, the cost of moving said property should be deducted from any remaining move cost entitlement since the displaced business did not actually incur any moving cost.

12-7.2.1.2 Purchase of Substitute Personal Property

A. If an item of personal property, which is used as part of a business or farm operation, is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

1. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
2. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. The estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

B. "Trade-in value" may be substituted for net proceeds of sale where applicable.

12-7.2.2 Ineligible Move Costs

A displaced business is not entitled to payment for:

A. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership.

B. Interest on a loan to cover moving expenses.

C. Loss of goodwill.

D. Loss of profits.

E. Loss of trained employees.

F. Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided as a re-establishment expense.

G. Personal injury.

H. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency.

I. Physical changes to the real property at the replacement location of a business or farm operation except as provided as a re-establishment expense.

J. Costs for storage of personal property on real property already owned or leased by the displaced person.

12-7.2.3 Re-establishment Expenses

In addition to actual move costs, a small business, farm, or nonprofit organization may be eligible to receive a payment, not to exceed $50,000, for expenses incurred in re-establishing their operations at a replacement location. These re-establishment expenses must be actual, reasonable, and necessary as determined by the department.

A. Eligible Expenses

1. Repairs or improvements to the replacement property as required by law or code.
2. Modification to the replacement property to enable the business to operate.
3. Construction and installation of new signage to advertise the business.
4. Provision of utilities from right of way to improvements on the replacement site.
5. Redecoration or replacement of soiled or worn surfaces such as carpeting, paint, paneling.
6. Licenses, fees, permits when not paid as part of moving expenses. An example of this would be a building permit.
7. Feasibility surveys, soil testing, and marketing studies.
8. Advertisement of the replacement location.
9. Fees paid to an agent in connection with the purchase or lease of the replacement property.
10. Increased cost of operations for two years at the replacement site for items such as rent, taxes, insurance, and utility costs.
11. Impact fees or one-time assessments for anticipated heavy utility usage.
12. Other items WSDOT considers essential to the reestablishment of the business.

B. Ineligible Expenses

1. Purchase of capital assets such as office furniture, machinery, trade fixtures.
2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of business.
3. Interior or exterior refurbishments at the replacement site for aesthetic purposes that exceed the maximum reestablishment payment.
4. Interest on money borrowed to make the move or purchase the replacement property.
5. Payment to a part-time business in the home which does not contribute materially to the household income.

12-7.3 Fixed Payment for Nonresidential Moving Expenses

A business, farm, or nonprofit organization may be eligible to choose a fixed payment in lieu of any payment(s) for actual costs for moving and re-establishment. This payment is sometimes referred to as an "In Lieu" payment. The payment is based on net earnings rather than actual moving costs. The minimum payment is $1,000 and the maximum payment cannot exceed $20,000 depending on the net earnings of the displaced business, farm, or NPO.

12-7.3.1 Business Eligibility

A. The displaced business will be eligible for the Fixed payment if the department determines that:

1. The business is not part of a commercial enterprise having more than three other establishments (not being acquired by the state) engaged in the same or similar business.
2. The business is not operated at the displacement dwelling or site solely for the purpose of renting said dwelling on site to others.
3. The business cannot be relocated without a substantial loss of its existing patronage.
4. The business contributed materially to the income of the displaced person during the two taxable years prior to the displacement. The term "contribute materially" is defined in Section 12-4.1.
5. The business owns or rents personal property which must be moved as a result of WSDOT's acquisition and for which the displaced business would incur an expense.

B. Determining the Number of Businesses — In determining whether two or more business activities constitute a single business (entitled to only one fixed payment) or two or more separate businesses (each entitled to fixed payment), all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;
2. Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
3. The entities are held to the public, and to those customarily dealing with them, as one business; and
4. The same person or closely related persons own, control, or manage the affairs of the entities.

C. Loss of Existing Patronage

1. Determination as to loss of existing patronage is made only after consideration of all pertinent circumstances, including but not limited to the following factors:
   a. The type of business conducted by the displaced person.
   b. The nature of the clientele of the displaced person.
   c. The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person
2. The term "loss of existing patronage" is construed to mean loss of support or loss of business by customers, patrons, clients, or paying guests. Whenever it is reasonably presumed that the net income of the business for the 12-month period after relocation will be less than the net income of the business before relocation, it can be construed that the business will suffer a "loss of existing patronage."

3. A business is presumed to meet the requirement for establishing loss of patronage unless WSDOT determines otherwise.

D. Payment Determination — The term "average annual net earnings" means one-half of the net earnings of the business before income taxes, during the two taxable years immediately preceding the taxable year in which the business relocated.

1. If the two taxable years immediately preceding displacement are not representative, the Relocation Agent may use a period that would be more representative. Prior to using this alternative procedure, it is first determined that the proposed construction or other non-typical factors not within the control of the displaced business were the cause of a decline in net income for the business.

2. "Average annual net earnings" includes any compensation paid by the business to the owner, the owner's spouse, or dependents.

3. In the case of a corporate owner of a business, earnings include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation and do not include compensation paid to said owner. For the purpose of determining majority ownership, stock held individually, jointly, or in common by a husband, his wife, and their dependent children is treated as being held in one and the same interest.

E. In Business Less Than Two Taxable Years — If a business has been in operation for less than two years prior to displacement, the average annual net income is determined by averaging the monthly net income and prorating this amount for 24 months.

F. Owner Provides Information — For the owner of a business to be entitled to this payment, the business must provide information to support its net earnings. The Relocation Agent assists the displaced business in completing the Application for Fixed Payment for Moving Expenses: Business-Farm-NPO (see Chapter 13 for the RES form). This form indicates the requirements for eligibility and the method of computation of the payment. It also requires that the displaced business attach copies of income tax returns and/or other evidence from which "average annual income" is determined in the application.

1. Income tax returns for the tax years in question are the best source of information. A copy of such tax returns would be accepted as evidence of earnings.

2. Other forms of information commonly used for official business purposes may also be accepted such as financial statements certified by a qualified practicing professional (such as a CPA or an attorney).

3. WSDOT may accept an affidavit from the owner certifying the amount of net earnings and granting WSDOT the right to review the records and accounts of the business. The owner's statement alone is not sufficient if the amount claimed exceeds the minimum payment of $1,000.

4. Strict confidence regarding tax returns is maintained and no other use is made of them.

12-7.3.2 Farm Operation

In lieu of actual cost payments, any owner of a displaced farm operation may be eligible to receive a payment equal to the average annual net earnings of the farm operation. Such payment shall be not less than $1,000 nor more than $20,000 and will be paid if the following requirements are met:

A. The farm operator has discontinued the entire farm operation at the present location or has relocated the entire farm operation.

B. In the case of a partial taking, the operator is considered displaced from a farm operation whenever any one of the following applies:

1. The property remaining after the acquisition will not be an economic unit for the same farm operation as determined by WSDOT during the appraisal process.

2 The taking caused the operator to be displaced from the farm operation on the remaining land.

3 The taking caused such a substantial change in the principal operation or the nature of the existing farm operation as to constitute a displacement.

The Fixed Payment is determined in the same manner as for a business.

12-7.3.3 Nonprofit Organization

A displaced nonprofit organization (NPO) may choose a fixed payment in lieu of actual moving and reestablishment if the NPO cannot be relocated without a substantial loss of its existing patronage, membership, or clientele. The payment will not be less than $1,000 nor more than $20,000 depending on financial records.

A. Eligibility — The region determines if the organization meets the definition of a NPO in Section 12-4.1 and is otherwise eligible.

B. The amount of the payment is the average of two years annual gross revenues less administrative expenses. Gross revenues may include titles, membership fees, or other forms of fund collection. Administrative expenses include rent, utilities, salaries, as well as fund raising expenses.

12-7.4 Move Cost Estimates by Relocation Agents

A. A relocation agent, after appropriate training, may prepare a move cost estimate if the amount of the estimate does not exceed $5,000. The amount of such estimate may be used as the basis for negotiating an agreement for self moves and is particularly useful when dealing with moving the personal property of a small, uncomplicated business, a non occupant dwelling owner (or landlord) or moving personal property from storage.

1. The relocation agent works closely with the displaced person to develop a written and photo inventory of the personal property item to be moved.

B. Computation – The relocation agent computes the move cost estimate in accordance with the Washington State Utilities and Transportation Commission Tariffs Rate Schedule.

1. The computation and supporting documentation are sent to the ADRAP for review and approval.

12-7.5 Claiming Business/Farm/NPO Entitlements

12-7.5.1 Timing Requirements

A. Claims for moving payments and other entitlement payments should generally be made after the move of personal property has been completed. The relocation agent must monitor the move to assure that adequate progress is being made to complete the move. Once the move has been completed and verified by the relocation agent, the relocation agent assists the displaced business, farm, or NPO with filing their claim or claims.

B. Claims for moving payments must be made within 18 months after the following dates:

1. Date of vacation for a tenant occupant.
2. Date of vacation or date of payment for the property, whichever is later, for an owner occupant.

12-7.5.2 Re-establishment Claims

A. Claims for re-establishment expenses must be considered by WSDOT to be "reasonable and necessary". In this context, reasonable means the costs are typical in the geographic area in which the displacement occurred for the type of goods or services being purchased. Necessary means that such goods or services are needed to carry out the move in conformance with the requirements of the Uniform Act. The test for re-establishment expenses at times may deal with comparing or matching amenities or characteristics of the replacement site against the displacement site. Also, the test is one of necessity, i.e. is the expense necessary to reestablish the displaced business. This may be the main criteria when a business owner changes business use at the replacement site.

B. Claims for re-establishment expenses can be made by the displaced business as the expenses are incurred or all at once upon completion of the replacement site.

C. Claims must be supported by paid receipts and/or invoices and should clearly identify work performed.

1. Relocation agent should organize the claim so that it can be easily reviewed and provide an outline of the recommendation for reimbursement. The outline should cite which provision under WAC 468-100-306 applies. (Contact Headquarters for a sample spreadsheet.)
2. Once the claim is prepared, the package should be sent to the ADRAP for review and approval.

12-7.5.2.1 Re-establishment Expenses for Non-Occupant Owners

A small business, farm, or non-profit organization, including a non-occupant landlord. Whose sole activity at the site is providing space to others, is eligible for a Reestablishment Expense Payment up to $50,000. The owner does not have to own personal property that must be moved in connection with the displacement. Typical examples of leased space are:

- Mobile Home Parks
- Business properties (e.g. warehouses, office space) including bare land used for storing equipment
- Farms and ranches (or any bare land used for agriculture or livestock grazing)
- Coin operated laundries or any other vending operation (newspapers)
- Residential units

A. To be eligible for this payment the displaced person must establish that the renting or leasing of space is a bona-fide business activity, and not part of a real estate investment or family situation, as supported by the displaced person's income tax records.

B. To ensure the displaced person's operation is in fact a business, the relocation agent should obtain from the displaced person records that support the status as a business (i.e. copies of income tax records, business license, lease agreements, or any other reasonable documentation).

C. To be eligible to receive the payment the Non-Owner Occupant must:

1. Acquire a replacement location with the 18-month time period.
2. Lease and/or purchase the replacement property as evidenced by a copy of a new lease or purchase and sale agreement.

D. FHWA has determined that the following situations or expenses are ineligible for a Non-Occupant Owner Re-establishment Payment:

1. The replacement site can not have been previously owned or leased by the displaced person or business.
2. A lessee who subleases space is not eligible for a Re-establishment Payment.

12-7.5.3 Professional Services Claims

A. Claims for professional services must be considered "reasonable and necessary" and should be pre-approved by WSDOT. Relocation agent should ask the displaced business to provide a "Scope of Work" from the consultant they wish to hire prior to hiring them to act as a move planner. The Scope of Work will help WSDOT determine those costs that will be considered reimbursable to the displaced business. Reimbursement of certain claims will depend on the complexities and/or nature of the business and will be reimbursed based on product and level of effort. Only work performed in relation to relocating the personal property will be eligible for reimbursement. The following is a list of those items that may be considered eligible:

1. Preparation of floor plan layout/configuration and flow of business operation as it relates to the personal property at the displacement site.
2. Planning of which personal property items will be moved, replaced, abandoned, discarded, or not moved.
3. Depending on the complexity of the move – the preparation or analysis of process systems that relate to the personal property. An example of a process system could be a dust collection system for a woodworking company.
4. Researching code requirements for installation of personal property currently grand-fathered at the displacement site that may require code modifications at the replacement site.
5. Preparation of floor plan layout/configuration and flow of business operation as it relates to the personal property at the replacement site.
6. Providing of professional services in connection with the purchase or lease of a replacement site is only reimbursable as a re-establishment expense per Section 12-7.2.3.

B. Claims for professional services can be made by the displaced business as the expenses are incurred or all at once upon completion of the work.

C. Claims must be supported by adequate documentation and should clearly identify work performed. Each claim should be supported by a visible product, which will help to determine level of effort.

1. Relocation agent should organize the claim so that it can be easily reviewed and should provide an outline of the recommendation for reimbursement.
2. Once the claim is prepared, the package should be sent to the ADRAP for review and approval.

12-7.5.4 Direct Payments to the Displaced Business/Farm/NPO

When the displaced business has selected a self move or a Fixed payment, the payment of entitlements should be paid directly to the displaced business. The relocation agent should prepare the claims (vouchers), obtain a W-9 form in accordance with procedures set forth in Chapter 10, obtain appropriate signatures and submit the claim to Headquarters for processing and payment.

12-7.5.5 Direct Payment to a Commercial Mover

When the displaced business has requested the department to provide a commercial move, the relocation agent must verify that the move is complete and that all personal property has been removed from the displacement site and moved to the replacement location. Upon said verification, the moving company should submit an invoice to the department and payment will be made directly to the commercial mover. The relocation agent must obtain the signature of the displaced business on the relocation assistance voucher. The relocation agent should also obtain a W-9 form from the commercial mover in accordance with procedures set forth in Chapter 10,

12-7.5.6 Direct Payment to a Third Party

If the displaced business asks that any payment be made directly to a third party for services rendered during the move, the relocation agent should either have the displaced business sign a claim (voucher) directing payment be made to said third party or should obtain a written request from the displaced business directing the department to pay a third party based on the third party's invoice. In no event shall any such direct payment to a third party obligate the department to pay more than the agreed upon move amount as shown in the executed Moving Expense Agreement. The relocation agent should also obtain a W-9 form from the 3rd party in accordance with procedures set forth in Chapter 10, The relocation agent should clearly document the request to make a 3rd party payment on the displaced business' behalf in the diary.

12-7.5.7 Advance Payments

It is often necessary for a business to request advance payments during their move. The ADRAP may approve advance payments based on the amount of the move that has been completed. The relocation agent should monitor the move and determine the percent of the move that has been completed. The relocation agent should then request an advance payment for the displaced business based on the amount of move that has been completed. Care must be exercised so advance payments do not create a shortage of remaining entitlements that would cause the move not to be completed.

12-7.6 Abandonment of Personal Property

If personal property is left at the displacement property, the relocation agent obtains a signed abandonment letter from the displaced business stating the business is abandoning the personal property to the state and will not claim payment for moving said abandoned property. The amount of the abandoned property should be deducted from the displaced business' final move payment. (Refer to Chapter 13 for the RES form.)

12-8 Mobile Homes

12-8.1 Eligibility

A. Owners and/or occupants of mobile homes that are displaced by a public project may be eligible for different types of relocation payments depending on different situations in relation to ownership and occupancy.

B. There are different combinations of ownership and occupancy when dealing with mobile homes, as follows:

1. A displaced person owns both the mobile home and the site on which the mobile home is located.
2. A displaced person owns the mobile home but rents the site on which the mobile home is located.
3. A displaced person rents the mobile home. The lot rent may or may not be included in the rent of the mobile home. This situation will be handled as a typical residential relocation of a 90-Day Tenant.

C. All occupants of mobile homes being displaced are eligible for the costs to move their personal property located inside the mobile home and for advisory services. In addition, decent, safe, and sanitary replacement housing must be made available.

12-8.2 Basic Mobile Home Relocation

A. Mobile homes are most often determined to be personal property rather than real property. The basic entitlement relating to personal property is the payment of the cost to move such personal property.

B. The owner of the mobile home may be reimbursed for the actual and reasonable costs of moving the mobile home from the displacement site to an acceptable replacement location and for making that mobile home meet decent, safe, and sanitary standards.

1. The relocation agent secures three estimates, if possible, to move the mobile home from the displacement site to the replacement site. The estimates should include all disconnect, tear down, transportation, set up, and reconnect costs associated with the move of the mobile home.
2. The estimate should also include the cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings; anchoring of the home; and utility hookup charges. If any of the attached appurtenances need to be replaced, the department should pay for these costs as well.
3. The lowest acceptable estimate will be selected as the mover if the displaced person wants to have their mobile home moved. If the displaced person wants to move their mobile home themselves, they should be offered a self move in an amount not to exceed the amount of the lowest acceptable estimate.

C. Any utility connections that are not included in the move estimates will have to be paid as incidental move expenses.

D. Mobile Home Park Entrance Fees — If a displaced mobile home owner is required to pay an entrance fee to move their mobile home into a mobile home park, that fee will be paid as an incidental moving cost.

E. If the mobile home is acquired as real property, there is no payment to the mobile home owner for moving the mobile home to a replacement site.

12-8.3 Replacement Housing Payments for Mobile Home Owners

12-8.3.1 Circumstances Requiring Replacement Housing for Mobile Home Owners

A. If the mobile home being displaced will not meet entrance requirements for any mobile home park in the area, a replacement mobile home will have to be made available that will meet any such park requirements.

B. If the mobile home is determined to be incapable of being moved without complete or substantially irrepairable damage, a replacement mobile home will have to be made available to the displaced person.

12-8.3.2 Eligibility Requirements

Ownership and occupancy requirements for receiving any replacement housing entitlement as a mobile home owner are the same as for a regular residential housing situation. The requirements for an owner occupant in a typical, constructed residential dwelling are to be applied to the occupant of a mobile home in all respects. Refer to Section 12-6.1 for these requirements.

12-8.3.3 Calculations of Replacement Housing Payments

All calculations of Replacement Housing Payments for mobile homes are to be prepared in the same manner as for residential displacements described in Section 12-6. The types of Replacement Housing Payments for the different combinations of ownership and occupancy are as follows:

A. If the displaced person owns both the mobile home and the site, the relocation agent should calculate the following:

1. A Price Differential for the mobile home.
2. A Price Differential for the site.

B. If the displaced person owns the mobile home, but rents the site, the relocation agent should calculate the following:

1. A Price Differential for the mobile home.
2. A Rent Supplement for the site.

12-8.4 Other Considerations

A. Partial Acquisition of Mobile Home Park — If WSDOT determines that its land acquisition will result in mobile home dwellings not within the actual acquisition area being forced to move, those mobile home owners and/or occupants may be eligible to receive the same payments as though their dwellings were within the actual taking. Prior to any contact with such owners and occupants relative to relocation entitlements, the region conducts an investigation and submits a report to the ADRAP for authorization to provide relocation entitlements. Such report includes the basis for such determination about being displaced, the number of mobile homes being forced to move and any other relevant facts or information.

B. Computation on Next Highest Type Dwelling — When a comparable mobile home is not available, the replacement housing payment is calculated using the next highest type of dwelling that is available and meets applicable requirements and standards, i.e., a higher type mobile home or a conventional dwelling.

12-9 Personal Property Only Relocation

12-9.1 Definition

A Personal Property Only (PPO) relocation is defined as a move of personal property from property acquired for right of way or project purposes where there is NOT a need for a full relocation of a residence, non-residential operation (vacant land), business operation, farm operation, or NPO from the acquired property. Business, farm, and NPO operations that must incur re-establishment expenses to facilitate the continuous operation of their business on the subject property should be relocated under the provisions of Chapter 12-7.

12-9.2 Types of Personal Property Only Relocations

A. Personal Property is stored on property where there is no residence or business on such property.

B. Personal Property is located on a portion of property that is being acquired but where the residence located on the property will not be affected.

C. Personal Property is located on a portion of property that is being acquired but where the business located on the property can still operate after the acquisition of the needed property and where the business will not incur re-establishment expenses.

D. Personal Property is located in a unit (or units) in a storage facility that will be acquired in whole or in part.

E. Minimal personal property is located in a rented mailbox in a commercial mailbox business that is being acquired in whole or in part.

F. Vehicles, trucks, recreational vehicles, boats and other miscellaneous trailers, either operational or not, that are located on property that will be acquired.

12-9.3 Personal Property Only Relocation Entitlements

A. The basic entitlement for the relocation of personal property only shall be a payment for the expense of moving said personal property to a replacement location of the owner's choosing. The payment shall be limited to expenses for moving within a 50 mile radius of the displacement location.

B. The owner of personal property that must be moved has the option of selecting a commercial move, a self-move, or an actual cost move:

1. The displaced person can request that WSDOT provide a commercial mover and pay that mover directly. The displaced person should indicate this option on the Moving Expense Agreement and work with the Relocation Agent to prepare a written and photo inventory of the items to be moved.

   a. Based on the inventory, moving specification, and any other information, WSDOT will obtain two bids from qualified movers and select the successful bidder. If a mover submits a bid, they will be compensated for their reasonable costs of preparing said bid. The Moving Expense Agreement, inventory, Moving Specifications, and region recommendation are then submitted to the ADRAP for review/approval.

2. A self-move by the displaced person can be based on bids from qualified movers, an estimate by the relocation agent, or the following move cost schedules provided in this section.

   a. The displaced person may elect to take full responsibility for the move of their personal property. In this event, the displaced person, working with the Relocation Agent prepares a written and photo inventory of the items to be moved. The Relocation Agent then prepares a Request for Proposal and Moving Specification. WSDOT then obtains at least two bids from qualified movers and offers the displaced person an amount not to exceed the acceptable low bid. The Relocation Agent may negotiate a move cost lower than the lowest acceptable bid, taking into account the profit and overhead costs which the commercial mover includes in their bids. The region will then submit the bids with all supporting documentation and their recommendation to the ADRAP for review and approval.

b. If the move costs appear to be $5,000 or less, WSDOT may offer an amount based on a single estimate prepared by a trained relocation agent in accordance with Chapter 12-7.4 of this Right of Way Manual. The region will submit the move cost estimate with all supporting documentation to the ADRAP for review and approval.

c. The move of personal property from a commercial storage facility shall be based on the following schedule:

Size of storage unit	Move Cost
5' by 5'	$ 150.00
5' by 10'	$ 200.00
10' by 10'	$ 300.00
10' by 15'	$ 500.00
10' by 20'	$ 675.00
10' by 30'	$ 1,000.00

The move cost is based on the size of the storage unit. The move cost should be documented by the Relocation Agent in their diary and approved by the Region Relocation Supervisor.

d. A dislocation allowance in the amount of $35.00 shall be paid to each person or business that rents a mailbox in a commercial mailbox operation. The move cost should be documented by the Relocation Agent in their diary and approved by the Region Relocation Supervisor.

e. Move costs for vehicles, trailers etc. shall be based on the following schedule:

1. Operational vehicles and motor homes	$ 35.00 each
2. Boats w/trailers, utility trailers, car trailers, travel trailers, and fifth-wheel trailers	$ 150.00 each
3. Non-operating vehicles and smaller motor homes that require towing	$ 75.00 each
4. Non-operating trucks and larger motor homes require towing	$ 150.00 each that

The move cost is computed based on the type of vehicle. The move cost should be documented by the Relocation Agent in their diary and approved by the Region Relocation Supervisor.

f. Move costs for appliances shall be based on a fixed rate of $50.00 per appliance which includes the cost to disconnect and reconnect. The move cost should be documented by the Relocation Agent in their diary and approved by the Region Relocation Supervisor.

In all cases, the displaced person must enter into Moving Expense Agreement prior to moving their personal property. It is the responsibility of the Relocation Agent to monitor the move.

3. Actual and reasonable costs to move the personal property is based on acceptable documentation of said actual costs. Prior to the start of the move, a written and photo inventory of the personal property items to be moved must be completed. Acceptable documentation includes receipts for payments, paid invoices, copies of payment documents, time sheets of people hired to perform the move, etc. If a question arises about the "reasonableness" of submitted costs, WSDOT may obtain one or more bids or estimates from qualified movers to use as a standard to determine if costs are reasonable.

   a. The Relocation Agent should prepare claim and send to ADRAP with region recommendation for review and approval.

   b. Move Monitoring – Agent should follow procedures outlined in Section 12-7.2.1.

   c. Post Move Inventory – Agent should follow procedures outlined in Section 12-7.2.1.

12-9.4 Payment of Personal Property Only Entitlements

A. Payment for commercial move expenses will be paid directly to the mover upon receipt of an invoice and upon verification by the Relocation Agent that all personal property to be moved by the mover has been moved to the appropriate replacement location.

B. Payment for self-move costs will be paid upon receipt of documentation from the displaced person that sufficient costs were expended to perform the move and upon verification by the Relocation Agent that all personal property to be moved has been moved to the appropriate replacement location. Acceptable documentation may include invoices, paid receipts, time sheets, labor statements, other appropriate information to support that actual costs were incurred for the move, or move monitoring in accordance with Section 12-7.2.1.

C. Payment for scheduled move costs will be paid upon verification by the Relocation Agent that all personal property has been moved from the acquired property to an appropriate replacement location.

D. In all cases, the relocation agent will need to obtain a W-9 form from the payee in accordance with procedures set forth in Chapter 10.

The forms listed for various chapters can be located as follows:

Access for WSDOT Employees

The WSDOT Agency Forms are located in:

Inbox / Public Folders / All Public Folders / WSDOT / Agency Forms / FileMaker Forms / WSDOT forms

The RES Forms are located in:

Inbox / Public Folders / All Public Folders / WSDOT / Olympia Service Center / Environmental and Engineering / Real Estate Services / Forms

Access From Outside of WSDOT

The WSDOT Agency FileMaker Forms are located at:
www.wsdot.wa.gov/forms

This site provides downloads of WSDOT FileMaker Forms and software if needed. If you do not have FileMaker Pro software you will need to make sure you download the runtime engine from the Forms Management web site prior to downloading the actual form. If you are experiencing problems downloading a FileMaker Form, you may want to contact Forms Management at (360) 705-7424. This web site also provides links to the Real Estate Services web page for RES Word Forms.

The RES Word Forms (also available in PDF Format) are located at:
www.wsdot.wa.gov/realestate

To receive copies of forms by mail or fax, call Real Estate Services in Olympia at (360) 705-7307. Note: A CD can be ordered from Engineering and Publications that includes most FileMaker forms as well as manuals.

Appraisal Forms (Chapters 4 and 5)

Real Estate Services Forms

RES-201	Right of Way Estimate
RES-202	R/W Project Cost Breakdown and Summary
RES-203	Staff Appraiser Assignment Form
RES-204	Report of Contact With Owner
RES-205	Certificate of Appraiser
RES-206	Summary of Conclusions
RES-207	Subject Plot Plan and Photos
RES-208	Short Form Narrative Appraisal Report
RES-210	Market Data
RES-210B	Sale Sketch and Photographs
RES-211	Appraisal Assumptions and Limiting Conditions
RES-212	Acquisition Appraisal Salient Information
RES-213	Abbreviated Appraisal Report
RES-214	Determination of Value
RES-215	PFE Parcel Worksheet
RES-216	Administrative Offer Summary

Acquisition Forms (Chapter 6)

WSDOT Agency Forms

120-020EF	Work Order Authorization
130-005EF	Agreement Edit Information
134-139EF	Invoice Voucher
220-025EF	Damage Claim Evaluation
261-005EF	Surplus Property Report
262-039EF	Real Property Voucher
262-048EF	Right of Way Parcel Transmittal Sheet

Real Estate Services Forms

RES-300	Cover Sheet
RES-301	Diary
RES-302	Warranty Deed
RES-303	Special Warranty Deed
RES-304	Special Warranty Deed DOT
RES-305	Warranty Deed (Access Rights Only)
RES-306	Quitclaim Deed
RES-307	Quitclaim Deed (Access Rights Only)
RES-308	Partial Release of Mortgage
RES-309	Partial Release of Mortgage (Access Rights Only)
RES-310	Request for Partial Reconveyance
RES-311	Partial Reconveyance
RES-312	Partial Release of Lease
RES-313	Well Agreement
RES-314	Septic Agreement
RES-315	Release of Damages
RES-316	Partial Release of Judgment
RES-317	Possession and Use Agreement
RES-318	Compensation Agreement for Condemnation
RES-319	Stop Condemnation Request
RES-320	Negotiators Report
RES-321	Document Transmittal
RES-322	Exchange Agreement
RES-323	Consent to Change of Grade
RES-324	Easement
RES-325	Temporary Easement
RES-326	Permit
RES-327	Option to Purchase Quarry/Pit
RES-328	Option to Purchase Lands
RES-329	Lease
RES-330	Bill of Sale
RES-331	Bill of Sale With Notary
RES-332	Notice of Lien
RES-333	Request to Accept Encumbrance
RES-334	Tax Set Over Letter
RES-335	Fixtures and Improvements Agreement
RES-336	Declaration of Covenant
RES-337	Escrow Agreement

Property Management Forms (Chapter 11)

WSDOT Agency Forms

220-015EF	Environmental Checklist for Surplus Property Disposals
260-051EF	Bid for Purchase of Surplus Real Estate
260-055EF	Surplus Property Review
260-060EF	Airspace Proposal Review
261-005EF	Surplus Property Report
263-002EF	Application to Rent State Owned Property
263-003EF	Salvage Appraisal Report
263-004EF	Assignment of Lease
263-006EF	Application for Deferred Payments
263-007EF	Property Inspection and Status Report
263-008EF	Residential Property Inspection
263-009EF	Rental Agreement Transmittal
263-016EF	Memorandum of Lease Benefiting Appurtenant Property
263-017EF	Memorandum of Lease
263-018EF	Memorandum of Lease Termination
263-023EF	Personal Property Sale and Removal Agreement
263-202EF	Application to Lease Unimproved Property or Airspace
265-002EF	Disclosure of Information on Lead-Based Paint and Lead Based Paint Hazards – Rental of Pre 1978 Housing

Real Estate Services Forms

RES 401	Request for Legal Description
RES 402	Waiver of Abutter's Rights
RES 403	Bill of Sale
RES 404	Employee Request – Permission to Bid on Surplus Real Estate
RES 405	Contract Insurance Requirements Information
RES 406	Surplus Real Estate Purchase Form
RES 407	Disposal Memorandum
RES 409	Option Agreement
RES 410	Real Property Purchase and Sale Agreement
RES 411	Quitclaim Deed
RES 412	Quitclaim Fulfillment Deed
RES 413	Easement Deed
RES 414	Real Estate Contract
RES 415	Residential Displacee Lease
RES 416	Commercial Displacee Lease
RES 417	Single Family Residential Lease
RES 418	Ground Lease
RES 419	Trail Lease
RES 420	Airspace Lease/Commercial Lease
RES 421	Wireless Communication Site Lease (Covers Attachments to WSDOT Structures)
RES 422	Wireless Communication Site Lease (Excludes Attachments to WSDOT Structures)
RES 423	Wireless Communication Lease – Approval of Sublease to (Subtenant)
RES 424	Airspace Lease for Communication Facilities (Ground Rental Only)
RES 425	Airspace Lease for Access to Communication Facility

Relocation Assistance Forms (Chapter 12)

WSDOT Agency Forms

264-001EF	Monthly Income Verification
264-002EF	Occupancy Survey
264-003EF	Relocation Eligibility Report
264-004EF	Housing Comparison Worksheet
264-005EF	Rent Supplement Report
264-006EF	Price Differential Report
264-007EF	Application for Fixed Payment for Moving Expenses: Business-Farm-NPO
264-008EF	Moving Expense Agreement
264-009EF	Relocation Assistance Voucher
264-010EF	Replacement Dwelling Inspection Report

Real Estate Services Forms

RES-501	General Notice of Relocation Rights (Business)
RES-502	General Notice of Relocation Rights (Landlord)
RES-503	General Notice of Relocation Rights (Personal Property)
RES-504	General Notice of Relocation Rights (Residential)
RES-505	Notice of Eligibility, Entitlements, & 90 Day Assurance (Business)
RES-506	Notice of Eligibility, Entitlements, & 90 Day Assurance (In Lieu)
RES-507	Notice of Eligibility, Entitlements, & 90 Day Assurance (Residential Owner)
RES-507A	Revised Notice of Eligibility, Entitlements, & 90 Days Assurance (Residential Owner).
RES-508	Notice of Eligibility, Entitlements, & 90 Day Assurance (Residential Tenant)
RES-508A	Revised Notice of Eligibility, Entitlements, & 90 Days Assurance (Residential Tenant).
RES-509	Notice of Eligibility, Entitlements, & 90 Day Assurance (Landlord)
RES-510	Notice of Eligibility, Entitlements, & 90 Day Assurance (Personal Property)
RES-511	Notice of Eligibility, Entitlements, & 90 Day Assurance (Res. Owner/Tenant Mobile Homes)
RES-512	Notice of Intent to Acquire
RES-513	Mortgage Maintenance Payment Computation
RES-514	Incidental Purchase Expense Worksheet
RES-515	Documentation of Living Expenses
RES-516	Relocation Entitlement Instructions – Price Diffreential.
RES-516A	Relocation Entitlement Instructions – Down Payment.
RES-517	Abandonment of Personal Property
RES-518	Agreement for Provisional Replacement Housing Payment
RES-519	Fixed Payment (In-Lieu) Worksheet.
RES-520	Request for Moving Bid cover letter
RES-521	Request for Proposal and Moving Specification format
RES-522	Replacement Site Search Log
RES-523	Re-establishment Expenses Worksheet
RES-524	Request for Mobile Home Moving Bid cover letter
RES-525	Mobile Home Move Bid
RES-526	Loss of Tangibles/Substitute Personal Property Bid Form.

RES-527	Loss of Tangibles Computation
RES-528	Substitute Personal Property Computation
RES-529	Residential Checklist
RES-530	Business Checklist
RES-531	Personal Property Checklist
RES-532	Final Claim Letter.