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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 ([Chapter 42.52 RCW](#) *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 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 there from 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. RES is also represented by the International Federation of Professional and Technical Engineers Local 17 Bargaining Agreement and some of the staff by the Washington State Federation of State Employees (WFSE) Bargaining Agreement.

### **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.

Property and Acquisition Specialist I (PAS I)  
Property and Acquisition Specialist II (PAS II)  
Property and Acquisition Specialist III (PAS III)  
Property and Acquisition Specialist IV (PAS IV)  
Property and Acquisition Specialist V (PAS V)  
Region Real Estate Services Manager (RESM) – WMS  
Assistant Region Real Estate Services Manager (Assistant RESM) – WMS  
Section Manager – WMS  
Headquarters Real Estate Services Manager (HQ RESM) – 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 Property Acquisition Specialist might be assigned any of the following function titles:

Staff Appraiser  
Review Appraiser  
Acquisition Specialist  
Title Examiner  
Condemnation Examiner  
Property Management Specialist  
Relocation Specialist  
Relocation Reviewer  
Training Coordinator

### **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 society organizations in their respective fields. Membership in such societies is purely voluntary and the department does not require such memberships as a condition of employment.

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 and the Washington Federation of State Employees Bargaining Agreement.

## 1-5 Vehicle Operation

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

## 1-6 Highway Location and Design

### 1-6.1 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 Real Estate Services Manager (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).
  10. Identify displacements of people, businesses, farms, and nonprofit organizations; availability of satisfactory replacements and last resort housing needs; and evaluate related costs.
- D. The Regional Administrator (or designee) conducts both the location (corridor) public hearing and the design public hearing.

### 1-6.2 Cost Estimates

- A. Upon the request of the Regional Administrator (or designee):
1. The Region RESM assigns Staff Appraisers or contracts with fee appraisers to prepare appropriate cost estimates as specified in [Chapter 4](#).
  2. Relocation Specialists are assigned to prepare appropriate relocation plans and relocation cost estimates as specified in [Chapter 12](#).
  3. Upon request, an engineer will accompany the Staff Appraiser and/or the Relocation Specialist 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 Regional Administrator, (or designee) on all studies submitted by the region. Such copies are retained for three years from the date of the final voucher for the project.

### 1-7 Right of Way Plans

- A. Right of way plans are the official state documents used as the basis to acquire real estate and other property rights. The plans are referred to in legal instruments and are permanently filed for public record at the Transportation Headquarters Building.

It is the responsibility of the region to assemble data and prepare plans for the acquisition of right of way, including easements, permits, and any substantiating documentation necessary for completion of the plans. These activities are further outlined in the [Plans Preparation Manual](#) M 22-31.

## B. The Region RESM:

1. Assures that right of way data of the types listed in this chapter are made available to the region engineering staff, including assessor's information and title reports as requested.
2. Assists the Regional 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, temporary easement, permit).
4. Assures that right of way plans are complete to the extent that the necessary data are depicted thereon.

## 1-8 FHWA Regulations, Compliance With

### 1-8.1 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.

## 1-9 Authority to Enter Lands for Surveys, Appraisals, Etc.

"The agency 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 agency or by its duly authorized and acting assistants, agents, or appointees." ([RCW 47.01.170](#))

Department personnel normally notify the property owner or tenant before entering private lands. (HQ RESM). Activities requiring excavation or invasive action (drilling, piezometers, test holes, etc.) do not apply to the above RCW, but require a permit or right of entry as outlined in [Chapter 6](#).

## 1-10 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 (AGO). Upon concurrence, an Assistant Attorney General (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 and no presentation will be provided by the AGO.

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 department's Safety and Health Services Office.
2. An employee who is determined by the safety office 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.

## **1-11 Personal Services Contracting by WSDOT Real Estate Services**

### **1-11.1 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 initiated by WSDOT Real Estate Services.

The types of services required 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, property management services, and relocation services.

Different types of personal services contracts may be used, depending upon the scope of services needed and specific criteria related to the project (e.g., geographic location, special knowledge and qualifications, and timeframe). Options include competitively selected on call agreements (using task orders for specific pieces of work), competitively selected project specific agreements, and sole source agreements.

When acquiring consultant services, it is the intent of WSDOT Real Estate Services to comply with requirements of the Federal Highway Administration (FHWA) including:

1. Ensure adequate oversight of consultant services for real estate activities as required by 49 CFR 24.205(c) on projects where right of way activities are being performed by consultants.
2. 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.

Personal services contracts related to Real Estate Services are developed, processed, and administered by the WSDOT Consultant Services Office (CSO). The policies and procedures for procuring and managing personal services contracts are located in the *Consultant Services Manual* M 27-50, Chapters 2 through 6. Chapters 7 through 9 of the manual refer to the process for establishing on call agreements and using task orders. These procedures are governed by [Chapter 39.29 RCW](#) under guidance and instruction from the Office of Financial Management. 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.

In general if a new agreement or a supplement to an existing agreement is needed, the requestor submits a completed request memo form to CSO. The Consultant Services Office will manage the solicitation process, work with the requestor to develop and execute the agreement, and ensure that OFM filing requirements are met. The Request Memo form can be located on the Consultant Services Web page at [www.wsdot.wa.gov/Consulting](http://www.wsdot.wa.gov/Consulting).

Each region has an Area Consultant Liaison (ACL). They serve as a source of information and support on contracting procedures and contracts that are managed in the region. The CSO networks with the ACLs and provides

training, policy, and process direction to them. They will be the regional conduit for processing real estate agreements through to the CSO and will collaborate with the Region RESM as needed.

### **1-11.2 Appraisal, Appraisal Review, Acquisition, Property Management, and Relocation Services**

Qualified consultants who perform appraisal, appraisal review, acquisition, property management, and relocation services are available for on call agreements that are competitively solicited and established on a biennial basis reflecting the anticipated construction workload and timelines. The on call agreements are administered by the Consultant Services Office.

When there is a need for a new task order for appraisal, appraisal review, acquisition, property management or relocation activities, the Region RES sends out an e-mail to all regions with a copy to the appropriate Headquarters section manager. The e-mail should include a discussion of the scope of work, expertise needed, and a request for availability of department staff. Once it is determined that there are no staff available, the region requests the task order from the Consultant Services Office. Task order requests for acquisition, property management, and relocation services must receive approval by the appropriate Headquarters section manager **prior** to submittal to CSO. CSO is the last step in the authorization to implement task orders.

Project specific and sole source agreements for appraisal, appraisal review, acquisition, property management and relocation services are the responsibility of the regional real estate staff for agreement initiation and management. These agreements will be processed through the Consultant Services Office. The Consultant Services Office will facilitate the solicitation, scoring, selection, contract execution and OFM filing.

All supplements to on call agreements and task orders (including time extensions, increased funding, etc.) will be requested from and processed by the Consultant Services Office. The CSO will also administer agreement closure, will maintain official contract files, and participate in audits as required.

### **1-11.3 Qualifications and Selection Criteria for Appraisal, Appraisal Review, Acquisition, Property Management, and Relocation**

Because eminent domain real estate appraisal, appraisal review, acquisition, property management, and relocation are so unique, it is practical to maintain a list of on call agreements with qualified consultants. The advertising and solicitation process will be based on direction from the Headquarters section manager and will be facilitated by CSO.

Minimum qualifications for **consultant appraisers** will include, but not be limited to:

1. Valid general appraisal certification issued by the state of Washington, Department of Licensing.
2. Experience and/or training in eminent domain appraisal/partial acquisitions.
3. Passing an examination conducted by WSDOT by a raw score of 75 percent or more. 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.

Minimum qualifications for **review appraiser** consultants will include, but not be limited to:

1. Certified “General” in the state of Washington per [Chapter 18.140 RCW](#).
2. Have five years minimum full-time narrative real estate appraisal report writing experience 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).
3. Passing an examination conducted by WSDOT by a raw score of 80 percent or more. Applicants with at least two years of full-time experience as a staff review appraiser for WSDOT are exempt from taking the examination.

Minimum qualifications for consultant **acquisition agents** will include, but not be limited to:

1. Experience and/or training in eminent domain acquisitions.
2. Knowledge and understanding of acquisition laws and federal and state regulations.
3. Knowledge and understanding of procedures set forth in [Chapters 6, 7, 8, 10, and 13](#) of the *Right of Way Manual* M 26-01.

Minimum qualifications for consultant **property management agents** will include, but not be limited to:

1. Experience and training in eminent domain acquisition and property management activities of leasing, disposal, and demolition on federally funded highway projects.
2. Knowledge and understanding of property management laws and federal and state regulations.

3. Knowledge and understanding of procedures set forth in [Chapters 11 and 13](#) of the *Right of Way Manual* M 26-01.

Minimum qualifications for consultant **relocation agents** will include, but not be limited to:

1. Experience and/or training in eminent domain acquisitions and extensive practical experience in providing relocation assistance to displaced persons under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended..
2. Knowledge and understanding of relocation laws and federal and state regulations.
3. Knowledge and understanding of procedures set forth in [Chapters 10, 12, and 13](#) of the *Right of Way Manual* M 26-01.

General criteria for competitive selection will include:

1. Credentials, experience, and reputation.
2. The proposed fee or cost.
3. Ability to meet schedules.
4. Previous performance.
5. Responsiveness to the solicitation.

The Headquarters section manager will retain performance evaluation information for each consultant utilized.

A consultant may be removed for cause:

1. Falsification of information.
2. Felony conviction.
3. Malfeasance or misfeasance.

### **1.11.5 Approval and Signature Requirements**

Contracts shall be executed by the Headquarters RESM and task orders shall be executed the Region RESM or the appropriate Headquarters section manager.

## **1-12 Relocation Review Board**

Reviews and takes action on appeals by relocation displaced persons who are aggrieved as to eligibility for, or the amount of any relocation assistance payments. See [Chapter 12](#) and consists of:

1. Headquarters Real Estate Services Manager or delegatee.
2. The Regional Administrator from the affected region or delegatee except from the office of Real Estate Services.
3. A relocation specialist from a regional office other than where the displacement occurred that has the knowledge skills and abilities for the type of displacement involved in the appeal.

## 1-13 Right of Way Certification

### 1-13.1 State Projects

#### 1-13.1.1 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 FHWA. Projects funded in whole or in part by FHWA can not proceed to contract until notification of approval is received from FHWA.

#### 1-13.1.2 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 Local Agency Projects/Special Acquisitions/Certifications Section Manager and the RESM 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, and is in the public interest. 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 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.

## **1-13.2 Local Agency Projects**

### **1-13.2.1 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* M 36-63.

### **1-13.2.2 Procedures**

- A. The Region RESM 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 Highways and Local Programs to Real Estate Services in Headquarters.

- C. The Local Agency Projects/Special Acquisitions/Certifications Section Manager 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 FHWA as set forth in Chapter 25 of the *Local Agency Guidelines* M 36-63 and submits it to FHWA with a copy to Highways and Local Programs.
- D. Highways and Local Programs provides notification that the certification has been sent to FHWA for approval. Upon receipt of approval, Highways and Local Programs will notify the local agency that the project can be advertised.