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Summary of Changes:

Please Note: These chapters have been completely re-formatted to a new style. The actual revision should be reviewed in-depth to become knowledgeable of the revision. All revisions are underlined and/or include a sidebar to indicate the changes to the text.

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TECHNICAL MANUAL

Right of Way Manual

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Environmental and Engineering Programs

Real Estate Services

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Chapter 4 Appraisal

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.
5. If a mobile home lies within the area to be acquired, procedures for Mobile Homes must be followed as described in Section 4-4.4.F.

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 Section 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 $25,000 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. The appraisal reports will be shared with the property owners. When this occurs, the appraiser submits one original report, which is given to the Review Appraiser.

B. After the report is reviewed and found acceptable, an original and four copies of the appraisal reports are submitted to the Senior Appraiser with a fifth 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. Two copies for the negotiator. One of these copies will be given to the property owner.

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 RCW 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.

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.

F. **Mobile Homes – Appraisal Procedures**. As described in Chapter 49 Code of Federal Regulations, Mobile Homes may be determined to be either Real Property or Personal Property. The appraisal procedures will be different depending on this determination.

It is recognized that personal services contracting expertise lies with the Region Appraisal Supervisor. The Region Appraisal Supervisor may contract with a mobile home specialist to explore whether each mobile home is real estate or personal property. As part of the contract, the mobile home specialist will also determine the salvage value of the mobile home (if real estate) and the depreciated value and cost to move the mobile home (if personal property), as described below.

The decision as to whether the mobile home is real estate or personal property will be made during the appraisal process and will be based on the following criteria:

Real Property. Title has been eliminated by the Department of Licensing, Motor Vehicle division.

Personal Property. Title is licensed by Department of Licensing, Motor Vehicle division.

1. If the mobile home is determined to be Real Estate, then it is appraised at its contribution value as real estate in the appraisal report, and a salvage value will be provided. The mobile home specialist may provide the salvage value as part of the contract referenced above.
2. If the mobile home is determined to be Personal Property, then these procedures are followed:
   a. As early as possible in the process, a contract will be made with a mobile home specialist to provide the following information:
      (1) Cost to move, including code modifications and necessary upgrades, if available.
      (2) Current depreciated value.
   b. The Region will complete the Mobile Home Worksheet Personal Property report (Form RES 220) during the Project Funding Estimate process.
   c. The Appraiser includes these costs in the appraisal report, but does not add them to the value of the real property:
      (1) A statement will be inserted in the appraisal acknowledging that the mobile home is personal property and what the conclusions of the specialist report are.
      (2) A copy of the specialist's report, if available, will be attached to the appraisal.

d. The Review Appraiser includes a statement in the Determination of Value:

(1) The statement will acknowledge that the mobile home is personal property and will state the conclusions of the specialist report. This information is not added to the value of the real property.

3. If the mobile home is determined to be Personal Property, but cannot be moved, as described in Chapter 12, Relocation Assistance, then the Region RESM may authorize the purchase of the mobile home, using Form RES 220.

4. When acquired, the clearing of the title to the mobile home will be handled as described in Chapter 6, Acquisition.

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. The appraiser identifies the ownership of real property improvements and personal property.

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.

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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:

l. 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 or 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). Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the agency.

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 and/or land 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.**

(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 $25,000. 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 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.

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. (If rental rate is provided in appraisal or by property management for owner occupant residential or business, add):

The rental rate as noted above will be $_____ per month commencing on the date the state acquires possession and will terminate 90 days thereafter. Enclosed is a copy of our standard displacee lease for your review.

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

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.

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.

   1. The Negotiator will deliver the bound copy of the appraisal (but NOT a copy of the Determination of Value).

      a. If the DV is different from the appraised amount, the Negotiator will deliver the memo to the property owner as justification for the difference.

      b. The Negotiator will instruct the property owner to direct questions about the appraisal only to the Negotiator as the representative of WSDOT.

   2. The Negotiator will present a copy of the approved Administrative Offer Summary (AOS) including the appropriate market data sheets to the property owner upon making the offer.

   3. 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.

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:

   l. 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.

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 Sections 6-10 or 6-11.

(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

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.

(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

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.

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 Section 12-3, 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.

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.

(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

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 6-4.4B), 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.

   Note: If the improvement acquired is a mobile home, whether it is determined to be real property or personal property, then follow procedures set forth in Chapter 11.

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.

6-4.8 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.

(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

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* (M 22-99).

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 Section 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 Section 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).

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.

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

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.

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.

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

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

(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:

RCW 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.

RCW 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 entitlements, 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.

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

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.

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.

6-5.15 Mobile Homes

A Mobile Home Worksheet (Form RES-220) is available to assist the RESM with determining whether or not to acquire a mobile home and will serve as the administrative settlement justification if the mobile home is purchased. A mobile home determined to be personal property cannot be acquired under eminent domain or the imminent threat of the State's exercise of its rights of eminent domain.

The authority to purchase a mobile home when it is personal property has been delegated (S7 Mobile Home Right of Way Purchase) to WSDOT by General Administration (GA) each biennium. HQ will be responsible for providing GA with a quarterly report regarding the acquisition of mobile homes.

If the RESM determines that the mobile home should be purchased the acquisition agent shall:

A. Provide the owner of the mobile home with a letter separate from the offer letter stating the following:

   The State's acquisition of the needed right of way will require the removal of a mobile home that has been determined to be personal property. If you wish to keep this personal property (mobile home), you may do so; however, if you prefer to sell it, the State will pay you its market value of $_____.

   Add the following statement for owner/occupants that own the land in fee or have a seller's or purchaser's interest under a Real Estate Contract: "This would be in addition to the amount offered for the purchase of the needed real property as defined in the State's Offer Letter."

B. Verify that title has been eliminated or obtain title to the mobile home:

   1. If title has been eliminated (Considered Real Property per the criteria set forth in Chapter 4):

      a. All mobile home information is included in Deed, i.e., "together with a 1985 20x78 Saratoga mobile home".

   2. If title has not been eliminated (Considered Personal Property per the criteria set forth in Chapter 4):

      a. Obtain original title or prepare a Department of Licensing Affidavit of Loss/Release of Interest form.

      b. Prepare a Department of Revenue Mobile Home Real Estate Excise Tax Affidavit form and have the owner sign as Seller.

Note: This applies to mobile/manufactured homes only. Sales tax will have to be paid on recreational vehicles.

c. Complete a Bill of Sale form.

d. Confirm that the property taxes and/or personal property taxes are paid in full through the current year. (See Chapter 8).

e. Prepare a Department of Licensing Vehicle Certificate of Ownership Application a/k/a Vehicle Title Application form.

Note: The form will be signed at headquarters as the new registered owner by the Director of Real Estate Services.

f. Prepares Release of Interest/Power of Attorney. Complete Power of Attorney portion only for owner's signature.

Note: Leave appointed name blank, HQ Title will complete.

g. If Region RESM submits for escrow:

(1) The Region Title Examiner obtains confirmation that the title company or escrow company is willing to escrow (close) a mobile home and verifies any additional fees that the company will require to complete the transaction.

(2) Prepare an escrow agreement that includes:

(a) The transfer of the mobile home

(b) Instructions for a UCC search or notes that HQ Title Section has completed a UCC search

(c) Clearance of any liens disclosed.

h. If Region RESM decides not to submit to escrow then:

(1) The agent contacts HQ Title Section to conduct a UCC search or prepares the UCC 11 form obtained from Department of Licensing and submits it with the proper fees to the Department of Licensing. After results are obtained, clears any liens disclosed per policy.

(2) The agent contacts the Department of Licensing to determine all applicable transfer fees.

Note: Headquarters will transfer the title through the Department of Licensing upon submission of originals.

i. Submit all original paperwork with transmittal

j. After original title is received from the Department of Licensing in the Region (approximately 6-8 weeks); a copy is transmitted to HQ for inclusion in the acquisition file.

3. The Acquisition Agent advises the Regional Property Management Section that a mobile home is being acquired.

   Note: If title is eliminated, advise Property Management that if mobile home is being moved off site, Property Management will need to apply for the title to be re-instated from the Department of Licensing.

If the RESM determines that the mobile home should not be purchased per the criteria set forth in Chapter 4, it will be moved pursuant to the procedures set forth in Chapter 12.

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. The recording of Temporary Easements and Construction Permits will be based upon the following:

   1. The temporary rights are shown on the R/W plan.

   2. Value is $1000.00 or more.

   3. That it has a term of more than six (6) months.

   4. That there is an expiration date.

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

A. 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.

B. Prior to plan approval, the region should have an agreement from both parties accepting the proposed easement.

C. 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.

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

2. 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.

D. 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. (See Chapter 11).

C. Rental to the original displaced owner or tenant beyond the initial displace lease period is allowed only with prior written approval by the DRES.

D. Rental rates to original displaced Owner or tenant may not exceed fair market rent.

6-7.3 Procedures

The Acquisition Agent:

A. Reviews the appraisal for determination of rent and 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 occupant 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 Relocation 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 occupant 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 occupant 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).

   Note: Additional clause is added to Clause E of the offer letter for an owner occupant of a residence or an owner occupant business along with a copy of the appropriate displacee lease.

5. In the case of an owner occupant, the RESM will assign an agent for delivery and execution of the displacee lease in accordance with the procedures set forth in Chapter 11.

   In the case of a tenant occupant, the agent coordinates with property management and relocation regarding delivery and execution of the displacee lease in accordance with the procedures set forth in Chapters 11 and 12.

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.

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.

(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:

_____
Region Real Estate Services Manager Date

Approved by:

_____
Director, Real Estate Services Date

Memo: Special Handling
Figure 6-8.3.3.2A

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, for signature of the Title and Condemnation Program Manager.

d. Obtains signature of DRES.

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.

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

(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 $25,000 threshold for appraisal waiver, an appraisal is required.

   g. Trial Risks

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 a memorandum 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.

3. Every file that is submitted for processing to condemnation must include evidence that a conversation involving the RA (or the Project Development Engineer), the RES Manager, and Attorney General's Office took place. Evidence of this conversation must be in the file when it is submitted. A short diary entry or copy of an email message indicating who was involved in the conversation and what was decided

will provide the minimum information needed. Details on what was discussed would be very helpful to document the conversation for anyone looking at the file in future years. This entry will also provide the AAG who is assigned to the case with information he or she might otherwise not have.

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, lists 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.

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 availableto 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

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.).

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

    FAC + PRC X 100 – 50 for each yr = rating

    CV

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.

(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

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.

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.

B. The DRES:

1. Reviews the submittal from the Region RESM.

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

(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

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.

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Chapter 8 Encumbrances

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.

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 Sections 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.

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

_____

_____

_____

_____

RES-337
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

8-3.1.2 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.

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

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_____

Cordially,

(Taxpayer)

_____

_____ County Assessor

By: _____
Deputy County Assessor

_____ County Treasurer

By: _____
Deputy County Treasurer

Tax Set Over Letter (Sample)
Figure 8-3.1.3.4

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.

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

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.

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

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.

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.

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 9-10.3.2) 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 8-3.4.3B1 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

8-3.6.1 General

Most mortgages and deeds of trust contain a condemnation/eminent domain or an acceleration clause calling for all proceeds to be applied to the unpaid balance; if proceeds are not applied to the unpaid balance, the lender can call all amounts immediately due and payable.

8-3.6.2 Rules

Partial Reconveyances or Releases are not required on partial acquisitions when the dollar amount of compensation does not exceed $10,000 (including damages, but exclusive of cost to cure/cost to move damages and compensation paid to replace or move a well or septic system) and there are no appreciable improvements (building, garage/sheds, outbuildings, etc.) in the area being acquired.

If the compensation is between $10,001 and $25,000 (including damages, but exclusive of cost to cure/cost to move damages and compensation paid to replace or move a well or septic system) and there are no appreciable improvements (building, garages/sheds, outbuildings, etc.) in the area being acquired, the risk of assuming this additional liability must be made by the RESM.

Over $25,000 is reviewed on a case by case basis and requires approval by the RESM and the Regional Administrator (or delegate).

8-3.6.3 Procedures

Under $10,000, the Acquisition Agent informs the property owner of any condemnation, due on sale, or acceleration clauses, and the risk associated therein and so notes in the activities diary. The response of the owner should also be clearly noted. The Acquisition Agent also notes in the encumbrance report on the Right of Way Parcel Transmittal Sheet that the property is being acquired subject to the lien.

Between $10,001 and $25,000 the following procedures apply:

A. The Acquisition Agent completes the Request to Accept Encumbrance (Form RES-333) and submits it prior to transmittal to the RESM for consideration.

B. The RESM evaluates the request based on the following criteria:

   1. Age of lien and current status of payment
   2. Amount of lien and risk of being called due
   3. Equity (market value of remaining lands less balance of lien)
   4. Evaluation of all liens, including taxes and assessments, as noted on the title report.
   5. Evaluation of any other unrecorded interests

C. If approved by the RESM, the Acquisition Agent obtains written permission from the property owner that they have been informed of any condemnation, due on sale, or acceleration clauses and the risk associated therein.

D. The owners signed statement and Request to Accept Encumbrance form are included with the transmittal package.

E. If RESM's review determines unacceptable risk, the RESM rejects the waiver, and Acquisition Agent clears the encumbrance, per normal procedure.

   Over $25,000, the procedure outlined above for $10,001 to $25,000 applies. However, the Request to Accept Encumbrance form must be approved by the Regional Administrator (or delegate) prior to submittal of transmittal.

Note: **This procedure does not apply to DSHS liens and other child support judgments.**

8-3.7 Personal Property Taxes

8-3.7.1 General

Personal property taxes are subject to the same levy rate as real property taxes. Personal property includes machinery, equipment, furniture, and supplies of businesses and farmers. It also includes any improvements made to land leased from the government (leasehold improvements).

Property taxes are due on April 30 and October 31. The owner of the property on January 1 of the assessment year owes the tax due the following year. The tax is due even if the business closes, or the property is sold or transferred before the end of the year.

Note: If WSDOT is acquiring a mobile home, personal property taxes must be paid in full.

8-3.7.2 Rules

A. Any personal property tax lien (current year and prior years) is an encumbrance which is cleared on acquisition of the personal property as a result of the state's project.

8-3.7.3 Procedures

A. The Acquisition Agent at the owner's election or tenant's election, if tenant owned:

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 made payable to the appropriate County Treasurer. The amount of this voucher is shown as a deduction on the "principal" Real Property Voucher.

B. If the transaction is to be closed in escrow, includes instructions to pay the personal property tax in the escrow agreement.

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.
   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 Chapter 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. The 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 Chapter 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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Chapter 11 Property Management

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).

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 Acquisition of Improvements/Personal Property

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 Mobile Homes as Personal Property

A. The Washington State Department of General Administration has given WSDOT the necessary delegation to acquire mobile homes that are appraised as personal property.

B. The mobile home, as personal property, may be acquired upon completion of a Region assessment of the acquisition issues, and the completion of a Mobile Home Worksheet, (form RES 220), with signature by the Region RES Manager.

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 "11-3.1B 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 Disposal of Mobile Homes as Personal Property

A. WSDOT does not have the authority to sell mobile homes acquired as personal property. Facilitating the disposal of a mobile home acquired as personal property will be completed by Region staff, and must initially be done by the Washington State Department of General Administration (GA) as follows:

1. Fill out an on-line Surplus Property Disposal Request
2. $150.00 payment to GA for mobile home sale
3. GA will assign a tracking number
4. WSDOT will provide GA with digital photos of the mobile home.
5. GA will list the mobile home on eBay for one week with pictures and information provided by WSDOT.
6. WSDOT will provide GA with a contact name and number for those prospective purchasers wishing to view the mobile home.
7. Average sale timeframe is one week, and once the sale closes, money is collected and buyer arrives at the site with a copy of the paid invoice.
8. Disconnecting electrical and plumbing is a WSDOT responsibility. All other responsibilities fall to purchaser.

B. GA will attempt to sell the mobile home twice through eBay. Any monies received will be returned to WSDOT accounting. If the mobile remains unsold after the second attempt, GA will return the responsibility to WSDOT. At that time WSDOT will decide to destroy or otherwise dispose of the mobile.

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.

11-5.6 Mobile Homes

As detailed in Chapter 4, the Department may acquire mobile homes as Real or Personal Property. The acquisition is accomplished as outlined in Chapter 6. Appropriate documentation regarding the acquisition must be provided to Region Property Management. The Region Property Management Agent handles the ongoing management and disposition of the mobile home as detailed in this chapter in those sub-sections titled: Mobile Homes as Personal Property (Section 11-2.5.4), and "Disposal of Improvements/ Personal Property Within Right of Way" (Section 11-5.1).

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.

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. **Types of Leases Used by WSDOT**

1. Airspace Lease (AA) used when tenancy lies within operating right of way. “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,which would include any proposal to lease property that straddles the right of way line.

2. Residential/Commercial Displacee Lease (NA) used when WSDOT acquires an occupied property, and the displaced grantor or tenant wish to remain in tenancy until relocated.

3. Ground Lease (RA, RC).

4. Commercial Lease (RA, RC).

5. Single Family Residential Lease (RA).
6. Wireless Lease (WF).
7. Trail Lease (AA, RA).

   Note: Rental of state-owned housing to state employees is the same as for any 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.

B. **Consideration/Economic or Market Rent.** All leases must be based on economic or market rent or consideration equivalent to economic or market rent. Exceptions to collecting economic rent may be considered where property is leased for a "highway purpose," or when the economic rent can be justifiably offset by benefits to the motoring public which equal rent value and is so documented. 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. If approved, both Region and HQ files must be appropriately documented.

C. **Lease Reviews**

1. No review required by HQ or AAG:
   a. Residential Displacee Lease
   b. Commercial Displacee Lease

      Note: When WSDOT acquires an occupied property, a Displacee Lease will be entered into with the tenant if they remain in occupancy. The lease may be prepared by the Region and signed by theTenant without prior approval of the form if there are no material modifications. Any material modification requires Headquarters review and approval prior to signature.
2. Review required by Headquarters
   a. Ground Lease
   b. Single Family Residential
3. Review required by Headquarters and the Assistant Attorney General:
   a. Commercial Lease
   b. Airspace Lease
   c. Wireless Lease
   d. Trail Lease

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

Acronyms relating to relocation assistance and the Uniform Relocation Act can be located in WAC 468-100-002. Additional acronyms relative to WSDOT are as follows:

ADRAP	Assistant Director, Relocation Assistance Program
AG	Attorney General
DRES	Director, Real Estate Services
EIS	Environmental Impact Statement
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, equitable 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, as amended), 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 dwellings 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.

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). If this option is selected, the agent should work closely with the Attorney General's Office to insure all necessary deductions are made to the condemnation settlement for any refund of the advance RHP payment due the department.

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 cost.

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 cost" is determined in the same manner as described under the definition of acquisition cost 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. See Chapter 13 for the RES form.

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 originals 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.

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 FHWA not later than November 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. **Mortgage Interest Differential Payment (MIDP).** 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 occupancy as covered in the signed rental agreement is allowed only with prior written approval by the DRES (see Chapter 11).

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 tenant. 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 tenant 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.

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. This includes payments received under Federal, State, local law, or insurance proceeds which are determined by WSDOT to have the same purpose and effect.

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, Acquisition procedures).

12-3.2 Project Regulations

A. **Payments Authorized.** 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. WSDOT will not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any 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.

J. **No Waiver of Relocation Assistance.** WSDOT shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and entitlements provided by the Uniform Act and governing regulations.

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 (defined as lasting no longer than a 12 month 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.

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

Definitions relating to relocation assistance and the Uniform Relocation Act can be located in WAC 468-100-002. Additional definitions and clarification are as follows:

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 Cost.** For the purpose of computing replacement housing payments, the "acquisition cost" 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 cost.

C. **Business.** In addition to the definition found in WAC 468-100-002, a business is also defined as "non-residential" and includes farms and non profit organizations.

D. **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.

E. **Mortgage.** 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.

F. **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.

G. **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.

H. **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. If a question arises, the agent will need to obtain legal documents to support residency, i.e., utility bills, driver's license, voter registration, auto registration, etc.

I. **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. **Mortgage Interest Differential Payment (MIDP).** 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.

J. **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.

12-4.2 Relocation Planning (Environmental NEPA/SEPA Stage)

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. Reports at this level should not include parcel specific information such as names and addresses of potential displacements. This information, if collected, should be kept in a separate project file. It also should be noted that secondary information collected during this phase of the project may cover many different alternatives prior to the selection of the preferred alternative. 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 (Right of Way Stage)

Project relocation plans are required on all projects that will cause the displacement of individuals, businesses, or personal property. The plan itself should provide detailed first hand information regarding the affected occupants of the project. This plan will provide important displacement information as well as estimated relocation costs for the project. A relocation plan is a great planning and communication tool and is considered a framework for the implementation of the relocation program.

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 and a copy is provided to HQ Property Management. The Region Relocation Supervisor should distribute an approved copy of the plan to each discipline within their region.

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 and will cover information regarding business, farm, and NPO displacements that is required by federal regulations. 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, photographs 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 (Occupancy Survey).** 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. The completed occupancy surveys should be included as an attachment to the plan. 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.

Residential Displacements:

1. This inventory is based upon a complete occupancy survey. See Chapter 13 for the residential occupancy survey form. This shall include a personal interview with the displaced person. The write up for each potential displacement should include specific information as obtained during the occupancy survey.
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.
3. The report should include an estimate of the number of residential households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

Non-Residential Displacements:

1. The report should determine, for nonresidential (businesses, farm, NPO) displacements, the relocation needs and preferences of each to be displaced. It should also explain the relocation payments and other assistance for which the business, farm, or NPO may be eligible to receive. This shall include a personal interview with each business. See Chapter 13 for the nonresidential occupancy survey form.
2. At a minimum, interviews with displaced business owners and operators should include the following items:
   a. The business's replacement site requirements, current lease terms and other contractual obligations and financial capacity of the business to accomplish the move.
   b. Determination of the need for outside specialists that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
   c. An identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.
   d. An estimate of the time required for the business to vacate the site.

e. An estimate of the anticipated difficulty in locating a replacement property.

f. An identification of any advance relocation payments required for the move, and WSDOT's legal capacity to provide them.

3. The report should also include an estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

C. **Inventory of Available Housing and Business Sites.** A reliable estimate of comparable replacement housing currently available on the housing market and an estimate of the availability of replacement business sites 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 residential housing should summarize:

a. The number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, WSDOT should consider housing of last resort actions.

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.

d. 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.

4. The inventory of available nonresidential sites should summarize:
    a. The availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the business should be considered and addressed.
    b. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

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 Housing of Last Resort 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 “Housing of Last Resort” 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, non-residential, 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 WAC 468-100-002.

B. Any adjacent occupant when WSDOT determines that such person or persons are 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, purchase prices and rental costs of comparable decent, safe, and sanitary housing, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as described in WAC 468-100-204.

4. Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations.
5. As soon as feasible, WSDOT shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment and the basis for the determination so that the person is aware of the maximum replacement housing payment for which he or she may qualify.
6. Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, WSDOT shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.
7. Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration that are within their financial means. This policy, however, does not require WSDOT to provide a person a larger payment than necessary to enable a person to relocate to a comparable replacement dwelling.
8. Assist a person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location.
9. Supply information concerning federal and state housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons, and technical help to persons applying for such assistance.
10. Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling, as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.
11. 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.

12. Provide other advisory services to displaced persons to minimize hardships to such persons in adjusting to a new location as appropriate.
13. Offer to provide transportation to displaced persons to search for or view replacement housing.
14. Advise business owners that prior to entering into a contractual obligation with a professional services specialist, it is highly recommended that the business owner have WSDOT review the Scope of Work to determine which items listed are eligible for reimbursement.

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 and shall include the name and telephone number of the agent who may be contacted for answers to questions or other needed help. The letters may be revised to reflect appropriate information for any specific relocation situation. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation. A certified translator must be used for those documents needing translation. Contact HQ Relocation for additional information.

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. If the written notice cannot be delivered in person, it should be sent by certified or registered first-class mail, return receipt requested, and documented in the official file. The returned green card should be attached to copy of the letter sent to HQ for inclusion in the official file.

E. 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.

F. 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.

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) Mortgage Interest Differential Payment (MIDP)
      (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, a 90-Day Tenant or less than 90-Day Occupant/Subsequent Occupant:
   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

k. In the case of a tenant occupant, the eligibility letter should include information regarding the economic rent of the displacement dwelling and a template of the displacee lease format. This is intended to provide additional information early in the process and does not require a prepared lease at the time of delivery. RES Manager will assign an agent to deliver the prepared lease.

3. Business, Farm, or NPO:

a. Actual Move Costs

(1) Personal Property Move Expenses

(2) Other Related 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

f. In the case of a tenant business occupant, the eligibility letter should include information regarding the economic rent of the displacement dwelling and a template of the displacee lease format. This is intended to provide additional information early in the process and does not require a prepared lease at the time

of delivery. RES Manager will assign an agent to deliver the prepared lease.

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.
   c. In the case of a tenant occupant, the eligibility letter should include information regarding the economic rent of the displacement dwelling and a template of the displacee lease format. This is intended to provide additional information early in the process and does not require a prepared lease at the time of delivery. RES Manager will assign an agent to deliver the prepared lease.
   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. See Chapter 13 for the correct RES form. 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 the maximum entitlement for a rent supplement. See Chapter 13 for the correct RES form.

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 for relocation assistance authorized by Chapter 8.26 RCW, and the regulations at Chapter 468-100 of the Washington Administrative Code (WAC) has the right to request an adjudicative hearing before an Administrative Law Judge (ALJ) at the Office of Administrative Hearings (OAH). WAC 468-100-010 sets forth WSDOT's rules regarding appeals and the hearing process. The typical (or maybe usual) steps leading up to an OAH include: (1) the aggrieved person files a request to have a determination regarding relocation assistance reviewed by the ADRAP, (2) the aggrieved person files a request to have the ADRAP's decision reconsidered by the WSDOT Relocation Review Board, and (3) the aggrieved person requests an adjudicative hearing. It is not mandatory that the aggrieved displaced person follows steps 1 and 2 before filing a request for an adjudicative hearing before an ALJ at OAH.

1. **General Procedures for Determination of Relocation Benefits.** The WSDOT local regional staff (regional staff) works individually with the displaced person and communicates WSDOT's determination regarding eligibility for, or the amount of, payment for relocation assistance to the displaced person, or to the displaced person's attorney. Thereafter, if the displaced person wants to challenge the regional staff's determination, the displaced person has the option of seeking review of that determination by the ADRAP, or filing a request for an adjudicative hearing to be heard before an ALJ at OAH. If the displaced person elects to have the ADRAP review the determination and then disputes the ADRAP's determination, the displaced person has the option of requesting reconsideration of the ADRAP's decision by the Relocation Review Board, or filing a request for an adjudicative hearing to be heard before an ALJ at OAH. If the displaced person has opted for the Relocation Review Board to reconsider the ADRAP's decision and then disputes the Relocation Review Board's decision and wants to challenge it, the displaced person must file a request for an adjudicative hearing before an ALJ at OAH. The displaced person requests an adjudicative hearing by submitting a request in writing to the WSDOT Secretary of Transportation. The process is further explained in the procedures set forth below.

B. **Preliminary Review by ADRP**

1. **Request for Review by the Displaced Person.** If the displaced person opts to have the ADRAP review the regional staff's decision, the displaced person must file a written request for review of the regional staff's decision. The displaced person must file the written request with the ADRAP within sixty (60) days following receipt of the regional staff's determination of the displaced person's claim. Review proceedings are initiated upon receipt by the department of a statement or letter from the displaced person or the displaced person's representative or attorney.

   a. Form of Statement or Letter. No specific form or format is required; however, the displaced person's statement or letter, at a minimum, should include:

      (1) Date of statement.

      (2) Name of the displaced person(s).

      (3) Project title.

      (4) Parcel number.

      (5) An explanation of what the displaced person is claiming; all facts, reasons, and any supporting documents explaining why the displaced person believes the claim should be paid; or why the displaced person is otherwise aggrieved.

      (6) Address, telephone number, and signature of the displaced person or the displaced person's representative or attorney.

2. **Preliminary Review Decision by ADRAP.** The ADRAP shall review the WSDOT file and the statement or letter and any supporting documents submitted by the displaced person. The ADRAP shall issue a written decision on the displaced person's request for review of the regional staff's determination. 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 for review, statement or letter submitted by the displaced person or to provide additional information or documentation within a reasonable time. The ADRAP will specify in writing to the displaced person the timeframe within which the displaced person should send the requested information. If the displaced person fails to make any required corrections, amendments or clarifications or fails to provide any of the additional information or documentation requested within the reasonable time specified by WSDOT, the ADRAP shall respond to the original request according to its merits. This response shall notify the aggrieved person that the aggrieved person has the option of either

requesting that the Relocation Review Board reconsider the ADRAP's decision, or requesting an adjudicative hearing to be held before an ALJ at OAH.

3. **Request for Reconsideration of ADRAP Decision.** If the displaced person opts to have the ADRAP's decision reconsidered, the displaced person must submit a written request for the Relocation Review Board to reconsider the ADRAP' decision. This request for reconsideration must be submitted by the displaced person to the ADRAP within thirty (30) days following the date of receipt of the ADRAP's decision.

C. **Reconsideration by WSDOT Relocation Review Board**

1. The ADRAP:

   a. Forwards the request by the displaced person for reconsideration of the ADRAP's decision to the Relocation Review Board. The Relocation Review Board consists of the Director, Real Estate Services (RES), the Regional Administrator of the Region where the displacement has occurred or the Regional Administrator's delegee (except from the office of Real Estate Services), and a relocation specialist from a regional office, other than where the displacement has occurred. The Relocation Review Board will meet to consider the request for reconsideration and all documents relied on by the ADRAP for the ADRAP's decision.

   b. Submits to the Review Board as requested by the Relocation Review Board all explanations and documentation relied upon by the ADRAP for the ADRAP's decision prior to the meeting of the Relocation Review Board. This documentation should include WSDOT files and documents, and the statement, letter or request for review and all supporting documents submitted by the displaced person.

   c. Notifies the Region RES staff of the meeting date and time and any decision made by the Relocation Review Board.

2. The Relocation Review Board:

   a. Notifies the aggrieved displaced person and ADRAP at least thirty (30) days in advance of the meeting of the time and place of the Relocation Review Board meeting. The meeting will take place within a reasonable time after receipt of the request for reconsideration.

   b. Upon review of all of the files, documents and explanations relied upon by the ADRAP for the ADRAP's decision, may invite the aggrieved displaced person and the ADRAP to submit additional documents in support of their positions regarding the claim.

c. Holds a meeting to analyze and consider all evidence in the request for review provided by the displaced person and the ADRAP and renders its decision in writing. This decision may be to either accept or reject the claim, in whole or in part.

d. Within ten (10) business days after the conclusion of the meeting, mails its written decision to the aggrieved displaced person and provides the ADRAP with its written decision. If the decision is a rejection of the claim, in whole or in part, advises the aggrieved displaced person that he or she has sixty (60) days after receipt of its decision in which to file a request for an adjudicative hearing with the Secretary of Transportation as set forth in WAC 468-100-010 and WAC 468-10-430(3).

(1) If the aggrieved displaced person does not file a formal appeal within sixty (60) days of receipt of the Relocation Review Board's decision, the displaced person's claim is closed, provided all payments have been made and other services have been provided.

(2) If the aggrieved displaced person requests an adjudicative hearing with the Secretary of Transportation, the case is referred to the ADRAP immediately to begin the process of arranging for an adjudicative hearing before an ALJ at OAH.

D. **Adjudicative Hearing Procedures/Administrative Law Judge.** As set forth in WAC 468-100-010, the adjudicative hearing will be carried out under the provisions of WAC 468-100-010, WAC 468-10, and WAC 10-08:

1. The ADRAP:

a. Notifies the State Attorney General's Office that an adjudicative hearing in front of an ALJ at OAH has been requested by the displaced person and makes a request that an Assistant Attorney General (AAG) be assigned to the relocation appeal case.

b. Once an AAG has been assigned to the hearing he or she will contact OAHs to request the assignment of an ALJ for an adjudicative hearing. Ordinarily the hearing will be held in the county were the displacement occurred.

2. Office of Administrative Hearings:

a. Provides direct notification to the assigned AAG and to the displaced person or the displaced person's representative or attorney as to the date of the pre-hearing conference and actual hearing date and time.

b. After the hearing, issues an Initial Order, which is generally called the Proposed Decision and Order.

c. Either party—the displaced person or WSDOT—may file a Petition for Review of the ALJ's Initial Order by filing a petition for review of the Initial Order with the Secretary of Transportation within twenty (20) days of the date of service of the Initial Order.

d. If neither party files a petition for review of the ALJ's Initial Order within twenty days of its service, the Initial Order becomes WSDOT's final order.

3. The Attorney General's Office:

a. Deals directly with OAH.

b. Prepares for hearing with the assistance of the Real Estate Services office.

c. Presents the case in front of the ALJ.

d. Notifies the ADRAP of the Initial Order issued by the ALJ.

4. Petition for Review of the Administrative Law Judge's Initial Order by Secretary of WSDOT:

a. If a petition for review of the Initial Order is filed, the Secretary of Transportation or the Secretary's designee (WSDOT reviewing officer) will review the ALJ's Initial Order and issue a written Final Decision and Order.

b. The AAG assigned to advise the WSDOT reviewing officer must be an AAG who has not been previously involved in the matter.

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. This includes those persons defined as owners of dwellings in WAC 468-100-002 which includes life estates. These persons should be handled in the same manner as a 180-day owner occupant.

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.

4. **Less than 90-day Occupant (Subsequent Occupant).** A person who fails to meet the length of occupancy requirements as stated above in items 1 thorough 3 would be eligible for a replacement housing payment under the provision of Housing of Last Resort.

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 rent supplement. The rent supplement cannot exceed the maximum price differential payment the displaced person would have received as a 180-day owner who elected to purchase and occupy a comparable replacement dwelling.
2. A 90- to 179-day owner or 90-day tenant may elect to become owners and receive down payment assistance. The entire rent supplement can be applied to the purchase of the replacement dwelling.
3. A less than 90-day occupant (subsequent occupant)may elect to become owners and receive down payment assistance. This should be handled under the Housing of Last Resort provision.

D. Only one Replacement Housing Payment is authorized for each dwelling unit except in case of multi-family occupancy of a single family dwelling or possibly a mobile home and lot situation.

12-6.2 Decent, Safe, and Sanitary Standards (Replacement Dwelling Inspection Report)

Decent, Safe, and Sanitary Standards (DS&S) are defined in the regulations under WAC 468-100-002. A DS&S inspection is required to make sure that to the best of the agent's knowledge and abilities the replacement dwelling meets the agency's minimum standards for qualified replacement housing. This inspection must be performed even if the displaced person is only claiming incidental expenses. Once the inspection is complete the form plus any photographs or requested supporting documentation must be forwarded to HQ.

Note: If the displaced person elects to move out of state, contact HQ Relocation and they will provide you with a contact name and number of the respective state DOT for a complimentary inspection.

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. The project file should contain an actual copy of the local codes for the county in which the project is located. The parcel file only needs to reference the information and state it can be located in the general project file. A copy of this information should be sent to HQ.

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. If the replacement dwelling has a private well, the agent must obtain documentation indicating when the last water test was done or if the dwelling has a community well, the agent must obtain and attach a copy of the Health Department water test results to the Replacement Dwelling Inspection Report (see Chapter 13 for RES form).
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 except in those areas where local climatic conditions do not require such as system.
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 has a disability, the replacement dwelling shall be adequate in terms of access and livability with respect to the person's limitations and meet the American Disabilities Act (ADA) requirements. The agent should identify ADA items at the displacement dwelling to determine the needs at the replacement dwelling. Required ADA items need to be supported by adequate documentation from the displaced person's medical provider.

9. **Sleeping Rooms.** The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes. In addition, WSDOT shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes. In the absence of local codes, the following procedures should be followed:

   a. **Number of Persons Per Sleeping Room.** The dwelling unit must have not less than 120 square feet of floor area, sleeping areas must have a minimum of 70 square feet, with an additional 50 square feet for each occupant in excess of two persons. Efficiency apartments (studios) must have a living room that is at least 220 square feet, and an additional 100 square feet for each occupant in excess of two.

   b. **Sharing Sleeping Rooms With Opposite Gender.** Children of the opposite gender, at the option of the family, may share the same bedroom or living/sleeping room in order to obtain replacement housing within their financial means.

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.

D. The purpose of the DS&S inspection on the replacement dwelling made by the agent is to determine eligibility for payments for replacement housing payments and is not intended to be, nor constitutes, warrants or guarantees that the replacement dwelling is free from defects. The relocation agent should encourage the displaced person to obtain a home inspection on the replacement dwelling prior to making the purchase. The cost of the home inspection is reimbursable as an incidental purchase expense.

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 "Mortgage Interest Differential Payment (MIDP).

   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 Differentia**l

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. See Chapter 13 for RES forms.

b. If the displaced person elects to construct a replacement dwelling, the base cost of the newly constructed replacement dwelling can be determined by adding the cost necessary to construct a comparable dwelling and the current fair market value for residential use of the replacement site unless the site is rented and there is a reasonable opportunity to rent a suitable replacement site.

c. If the displaced person elects to retain ownership of, or obtains salvage rights to, the person's dwelling (in accordance with procedures described in Chapter 6), moves it from the

displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of the following:

(1) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

(2) The cost of making the unit a DSS replacement dwelling as defined in WAC 468-100-002; and

(3) The current market value for residential use of the replacement dwelling site unless the site is rented and there is a reasonable opportunity to rent a suitable replacement site.

(4) The retention/salvage value of the displacement dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(5) Limitations. The payment computed under this subsection cannot exceed the amount of the calculated maximum price differential payment.

d. 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.

e. 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. Refer to the appraisal for the economic rent of the displacement dwelling. The maximum rent supplement to an owner who chooses to become a tenant is cannot exceed the computed price differential payment that they would have received as an 180-day owner occupant.

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. A partial owner occupant who cannot afford to purchase a comparable replacement dwelling may be relocated as a tenant and provided a rental assistance payment in accordance with the procedures set forth in Section 12-6.3.3.

c. The agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the agency would be required to provide the displaced person if they owned fee simple title to the displacement dwelling.

d. 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.

e. 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. **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 (carved out) from the acquisition cost of the displacement dwelling.

c. **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 carve out applications of this provision.

d. **Multiple Occupants of One Displacement Dwelling.** In general, all of the occupants of a single dwelling unit should be considered one family for the purposes of payment calculations. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. In this case, the agent would compute one replacement housing payment and determine the prorated share for each occupant. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments. The agency is responsible for determining the number of households in a dwelling based on the use of the dwelling, the relationship of the occupants, and any other information obtained. The payment computation for each household should be based on the part of the dwelling that the household occupies and the space that is shared by others. An attempt should be made to locate similar comparable DS&S living facilities. The agent diary should be sufficiently documented to support the decision.

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 the entire property. 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.

f. **Computing an RHP When a Higher and Better Use is Indicated.** In computing a replacement housing payment for an owner occupant whose residential property to be acquired is appraised for a higher and better use (usually as if vacant), the acquisition cost of the displacement dwelling used in the computation is the value of the dwelling occupied by the owner plus the value of that portion of the acquired land representing a typical residential lot for the area. The dwelling and land values are based on the Agency's approved appraisal.

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. The relocation agent should work closely with the lender and the escrow company to facilitate the closing of the replacement dwelling and make sure funds are applied and shown correctly on the closing statement. The agent should prepare the Incidental Expense Worksheet, Entitlement Instructions, and process a warrant once the preliminary closing statement is received. See Chapter 13 for RES forms. Once the loan closes the agent is required to perform an analysis of the final closing statement to make sure all funds were applied correctly and send it and supporting documentation to HQ.

1. Incidental purchase expenses may include the following items if normally paid by the buyer and must be typical of the selected loan program:

   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 the comparable used to establish the RHP.

   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 the comparable used to establish the RHP.

   h. Professional Housing Inspections fees.

   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. Fees should be reflective or typical of industry standards.

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 mortgage interest differential payment.

3. Incidental purchase expenses are determined from a copy of the preliminary closing statement (preferred) or a good faith estimate and verified from a copy of the final closing statement.

D. Mortgage Interest Differential Payment (MIDP). 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. The agent needs to obtain the following information in order to calculate the MIDP:

1. The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling. The MIDP will be computed based on an available loan program similar to the loan on the displacement dwelling. The displaced person can elect to change loan programs once the department determines a threshold for the level of reimbursement on a similar loan program. 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. Agent will need to obtain copies of displacement dwelling loan documents from the displaced person.

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. The agent needs to work closely with the lender to obtain Good Faith Estimates (GFE) on several different options for closing to determine if paying discount points on the replacement loan to obtain the lower rate is more cost effective than payment of an entire MIDP. A combination of both the MIDP and discount points can also be used. It might be helpful to obtain the following:

   a. GFE to close at today's rate w/no discount points

b. GFE to close at the interest rate of the displacement loan using discount points

c. GFE to close with a mid-range interest rate and discount points

4. Purchaser's points (discount 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 discount points and fees are based on the unpaid mortgage balance on the displacement dwelling unless the cost to buy down the interest rate on the entire replacement loan is more cost effective for the agency than paying the calculated MID.

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. Communication with the lender and escrow/title company is necessary to make sure payment can be made available at closing. The calculation should be verified using the excel MIDP program. Contact HQ Relocation for more information.

6. The payment is contingent upon an actual mortgage being placed on the replacement dwelling.

7. Other Loan Programs. Contact HQ Relocation for guidance.

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, housing of last resort is required (see Section 12-6.4).

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 the price differential amount the displaced person would have received as a 180-day owner occupant.

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 plus utilities. Computation for this payment is submitted on a Rent Supplement Report and the Housing Comparison Worksheet. See Chapter 13 for the RES form.

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 using economic rent obtained from the appraisal for the displacement dwelling.

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 actual and lawful 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 See Chapter 13 for RES forms. The payment is determined by multiplying 42 times the amount obtained by subtracting the base monthly rent 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 electricity, gas, other heating and cooking fuels, 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. The latter method is preferred by WSDOT. 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 for a reasonable period prior to displacement, as determined by the agency (for an owner occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use fair market rent, unless it would result in a hardship because of the person's income or other circumstances.); or

   b. Thirty percent of the displaced persons's average monthly gross household income if the amount is classified as "low income" by the U.S .Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs (web site: http://www.fhwa.dot.gov/realestate/ua/ualic.htm). The base monthly rent shall be established solely on the criteria in "a" above for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise. The displaced person 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 person 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 person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

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 rent supplement based upon the new rental amount. The claim is then processed in accordance with this manual. An additional DS&S inspection is not required if a displaced person maximizes their replacement housing payment and chooses to move to another dwelling prior to the release of their final payment. Once the displaced person rents and occupies a replacement dwelling within the allotted timeframe, the displaced person vests fully in the calculated replacement housing payment.

D. **Government Subsidized Housing.** Comparable housing for those occupying government subsidized housing will be determined by the family composition at the time of displacement and current housing program criteria, not the size of the unit currently occupied. WSDOT will not impose their rules of comparability for those occupying government housing.

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, an escrow arrangement is usually established. The relocation agent should obtain a preliminary closing statement or a good faith estimate from the lender or the escrow company. The agent will need to work closely with the lender and escrow/title company to

make sure the down payment is applied and shown correctly on the closing statement. Once the loan closes the agent is required to perform an analysis of the final closing statement to make sure all funds were applied correctly and send it and supporting documentation to HQ.

12-6.3.4 Short-Term Occupants (Less than 90-day 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. Displaced persons failing to meet the length of occupancy requirements continue to be eligible for relocation entitlements under housing of last resort. 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.

4. A program or project cannot be advanced to completion in a timely manner without housing of last resort.

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, short-term occupant, or subsequent 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 Narrative

A. A last resort housing narrative 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. Housing of last resort requiring super payment or other solutions must be addressed at the Relocation Plan Stage.

C. The narrative should be included as part of the agent's correlation and conclusions which is submitted with the Housing Comparison Worksheet to HQ Relocation.

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, a self move, or a combination of both. A commercial move is ordered by HQ Relocation upon receipt of the Moving Expense Agreement in accordance with the procedures set forth by the contract administered by the Department of General Administration. A fixed residential move cost is based on a fixed schedule based on the number of eligible rooms. An actual cost self move is support by receipted bills for labor and equipment. Self moves based on the lower of two bids or estimates are not eligible for reimbursement.

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 for each family. A self move 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 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.

D. **Disposal of Personal Property and Hazardous Materials.** This should be handled according to the procedures set forth in Section 12-7.2.1, actual move costs for non-residential displacements.

12-6.5.1 Self Move, Fixed Residential Moving Cost Schedule

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 schedule shown below. The schedule applies 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.

Fixed Moving Payment Schedule

1. **Room Count Method**

   (For relocating personal property to be moved from a dwelling unit.)

Number of Eligible Rooms	Occupant Who Does Not Own Furnishings	Occupant Owns Payment to Furnishings
1	$600	$300
2	$800	$350
3	$1,000	$400
Additional Rooms	$200 each	$50
Dislocation Allowance=	$400 and is included in the 1st room count above	

2. **Additional Personal Property Method.** The above schedule can be used when relocating personal property such as vehicles, RV's, boats, and trailers from the outside areas surrounding the residential dwelling unit. The agent must figure the number of eligible rooms based on the volume of the property to be moved. Excessive room counts for this type of move would be best handled as an actual cost self move.

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 is an abundance of personal property in the residence and 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 the personal property items located in the residence should be handled by a room count and the remainder should be handled as an actual cost move supported by receipts and/or invoices. Typically moves of this size are difficult for a displaced person to handle on their own and it might be difficult for them to move the items off the right of way in a timely manner.

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. See above fixed residential move schedule.

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. The agent should also record the vacate date in the diary and make the necessary computer entries.

12-6.5.2 Self Move, Actual Cost

A. The displaced person may elect to perform an actual cost move supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

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 reviews the supporting documentation submitted by the displaced person to make sure the charges are considered reasonable and necessary for the amount of personal property that was moved. If there is a question as to the reasonableness of the costs submitted, the agent may have to provide both the photo and written inventory to a commercial mover and ask for an estimate.

1. The computation and supporting documentation is sent to the ADRAP for review and approval.

12-6.5.3 Residential Commercial Move

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 and

forwarded to HQ so the move can be ordered. The move will be ordered in accordance with procedures set forth by the Department of General Administration. 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.

12-6.5.4 Ineligible Moving and Related Expenses

Refundable security deposits and utility deposits are considered ineligible expenses and cannot be reimbursed to the displaced person.

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. 90-day, less than 90-day, or subsequent 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 and 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 and 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/Less Than 90-Day Occupant/Subsequent 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 replacement housing 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. The agent should consult with the acquisition agent to determine if the displaced person received an administrative settlement. If so, this will have an affect on the actual calculation of the RHP and the agent will need to send the displaced person a revised entitlement letter. See Chapter 13 for the appropriate RES form. If an administrative settlement eliminates the price differential payment, the displaced person is still eligible to receive reimbursement of the following:

1. MIDP
2. Incidental Closing Expenses

The agent must perform a DS&S inspection on the replacement dwelling prior to making any of the above payments.

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 (preliminary closing statement).

G. The relocation agent works with the displaced person and the lender when necessary to calculate the Mortgage Interest Differential Payment (MIDP), 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 the scheduled payments section of 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 in accordance with the GA contract for residential moves.

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 and completes the Vacate Inspection form (see Chapter 13 for the RES form). 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. If the displaced person fails to move all the personal property an adjustment should be made in the payment amount prior to getting a voucher signed. The agent is then responsible to clear the items which can be accomplished by hiring a professional mover or coordinating with Property Management for removal of items. 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 should consult with HQ Relocation and the moving company to arrange to have said remaining property moved to the replacement property. If they are items that the commercial mover is unable to move then the agent should make necessary arrangements with a specialty mover or the displaced person to get the items moved to the replacement location.

2. If the personal property is not removed and is abandoned, the relocation agent should get an abandonment notice signed by the displaced person and should make the necessary arrangements with a mover or Property Management to get the items removed from the property.

3. When the move is complete, invoices from the movers will be received in HQ and 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 using the RES form located in Chapter 13.

12-6.6.2.1 Abandonment of Personal Property

The agent should work closely with the displaced person to remove all personal property items from the right of way. The agency will pay the cost to move the items as set forth in Section 12-6.5 – Moving Entitlements and appropriate calculations should be performed and required notices provided. Disposal costs are not paid in addition to the move costs. The agent should not encourage items to be left on the property. In the rare instance personal property is left at the displacement property, the relocation agent will need to obtain ADRAP approval prior to obtaining 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. Once ADRAP approval is obtained, the moving expense attributable to the abandoned property should be deducted from the displaced person's final move payment. (Refer to Chapter 13 for the RES form.)
The relocation agent should make the necessary arrangements through the relocation assistance program to hire a mover to clear the property or check with Property Management to get the items removed from the property. If the property is clear upon vacate inspection, the agent should not obtain a signature from the displaced person on the abandonment notice.

12-6.6.3 Residential Payment Claims

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.

A. **Advance Replacement Housing Payments**

1. 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.

2. 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.
3. 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.
4. 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.
5. 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.
6. The burden of proving the reasonableness and necessity of advance payments rests upon the displaced person requesting the advance payment.

B. **Advance Moving Payment.** 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.

12-6.6.3.1 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.

12-7 Non-Residential Relocation Entitlements - (Business, Farm, and NPO)

12-7.1 Eligibility

A. Displaced businesses, farms, and nonprofit organizations may become eligible to receive moving payments for the following:

1. Moving of personal property located within the acquired right of way.
2. Moving of personal property when the acquisition of real property used for a non-residential use causes the displaced occupant to vacate a dwelling or other real property not acquired.
3. Reasonable and necessary moving payments for moving a property owner's non-residential related personal property from a non owner occupied residential property.
4. One move, except where it is determined by the ADRAP that it is in the public interest to authorize more than one move.

B. A non-residential displacement must be in lawful occupancy of the displacement site at the time of initiation of negotiations or subsequent to the initiation of negotiations but prior to its acquisition.

12-7.2 Non-Residential Moving Payments

12-7.2.1 Actual Move Costs

The determination of realty versus personalty should be resolved prior to working with the displaced business to prepare an inventory of the personal property items to be relocated. This should be accomplished early in the process (the occupancy survey stage) as described in Section 12-4.2 Relocation Planning. The agent should be able to consult the appraisal for a list of those items determined to be real property.

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. Storage of personal property for a period not to exceed 12 months if such expense is determined to be reasonable and necessary. Requests for storage from the displaced person must be in writing and submitted to the ADRAP for pre-approval.
5. Insurance for the replacement value of the personal property during the move and necessary storage.
6. 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.
7. The replacement value of property lost, stolen, or damaged during the move (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
8. 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. The business owner should be advised to obtain Scope of Work bids as outlined in Section 12-5 Advisory Services.
9. Relettering signs and replacing printed materials made obsolete by the move.
    a. The agent should work with the displaced business to complete an inventory (see Chapter 13 for appropriate RES form) of those items considered obsolete due to the move. This should be done no later than the day of the move. The agent should also obtain samples of any items to be reprinted. The department will reimburse the displaced business owner either the cost to reprint the stock on hand or the minimum print run. Once the items have been reprinted, the agent must obtain invoices and verify with the printing company the minimum print runs.
    b. Costs incurred by a displaced business to notify its customers of its move to a replacement site, which may include but not limited to post card mail-outs to existing customers or the revision of a yellow pages advertisement and/or website are eligible reimbursement costs subject to the following conditions:

(1) The cost must be documented, actually incurred, and reasonable. For example, the reimbursement for revising a website must be supported by documentation evidencing the costs incurred and would not extend beyond basic changes such as the change of address, phone number, directions, and/or map to the new site. The design and incorporation of product descriptions and photographs, links, etc., would not be reasonable.

(2) The costs for notifying customers and the public of the business' change of location are eligible as a actual moving expenses and considered as other moving related expenses that are not listed as ineligible.

(3) Actual and reasonable costs incurred by the business to advertise the replacement location beyond notification to customers and public of the business' change of location, are eligible reestablishment expenses. This may include newspaper ads, flyers, or other forms of media advertising to attract customers to the new location, i.e., the business might place a newspaper ad for a grand opening. Such costs are limited to advertisement of the replacement location and do not include costs to advertise products.

10. **Actual Direct Loss of Tangible Personal Property.** This payment is the lesser of the fair market value in place of the personal property item as is for continued use at the displacement site or the estimated cost to move the item as is (not including storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site) (see Section 12-7.2.1.1 for details).

11. The reasonable cost incurred in trying to sell an item that is not to be relocated.

12. **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 Section 12-7.2.1.2 for details).

13. Expenses for searching for a replacement location, including transportation costs; meals and lodging; time or labor costs based on reasonable salary or earnings; fees paid to real estate agents or brokers to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites; time spent in obtaining permits and attending zoning hearings; and time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings. This payment shall not exceed $2,500.

a. Agent should obtain a detailed site search log from the displaced business along with appropriate backup documentation, i.e., listing sheets, photos, list of contacts, receipts for lodging, mileage tracking sheets, etc.

14. Reasonable costs to secure professional move bids.

15. **Low Value/High Bulk.** When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the displacing Agency, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency. It is WSDOT's responsibility to determine what is reasonable and necessary for the relocation of those items, for the purposes of establishing a reimbursement threshold. For example, if the personal property to be moved includes an item which, because of its bulk or excessive costs required for disconnecting, moving and reconnecting such item, would be cheaper to replace than to move, WSDOT must limit reimbursement to the cost to replace—even if the displaced person elects to move the item.

16. **Disposal of Personal Property and Hazardous Materials.** A displaced person is eligible to be reimbursed for relocating personal property to a replacement site. The requirement includes items that may be of little value or use, items which because of their bulk are more costly to move than to sell or replace, and continued or free-standing personal property which is considered to be hazardous material. WSDOT does not have the ability to preclude the displaced person from relocating these items; nor, can we refuse the reimbursement if these items are relocated. WSDOT does have the authority and the responsibility to base the reimbursement of these items on what is "reasonable and necessary." While the displaced person's wishes with regard to the move of the personal property will be considered, the WSDOT is accountable for the expenditure of public funds and must apply the test of "reasonable and necessary."

    a. As a general rule, WSDOT will not pay disposal costs for personal property in addition to move costs. If the displaced person wishes to dispose of the personal property, any amounts that exceed the calculated move costs will not be reimbursed.

    b. In the case of hazardous materials which are considered to be personal property and eligible for moving cost reimbursement, the following guidelines will be used in applying the "reasonable and necessary" criteria:

(1) The costs determined by bid, estimate, or other procedural process for moving these materials to the replacement site (for a business that is reestablishing) are eligible for reimbursement.

(2) If the displaced person voluntarily elects to dispose of these materials at a dump or other authorized disposal site, they can be reimbursed for the actual costs to transport and disposal, but not to exceed the costs of transporting the materials to the replacement site to which the business is relocating. (For example, if the estimated cost to move the materials to the replacement site is $5,000 and the cost to transport to a disposal site plus the disposal fees are $10,000, the reimbursement will be limited to $5,000 if the displaced person used the disposal option.)

(3) If the displaced person must transport those hazardous materials to a dump or disposal site based on Federal, State, or local code or ordinace that precludes them from moving the materials to the replacement site, then the costs of transport and disposal would be eligible. Such code or ordinace must be adequately documented in the official relocation file.

(4) If the displaced person cannot move these materials to the replacement site because of inadequate storage space, then WSDOT must determine whether there were reasonably available sites to which they could have moved that would have allowed storage space for these materials. If the determination is that alternate sites were not reasonably available, then WSDOT can reimburse the displaced person for the costs of transporting and dumping of these materials at a disposal site. If, on the other hand, alternate sites were reasonably available, then reimbursement for the costs of transporting and disposing of the materials will be limited to the estimated cost to move the materials to the replacement site (or, if there is any appreciable difference, the cost of moving the materials to a reasonably available alternate site). The key issue here is WSDOT will not reimburse the costs of disposing of these materials if WSDOT's project does not limit the displaced person's options for relocating these materials or necessitate disposal.

B. **Move Options**

Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods:

1. **Commercial Move.** Based on the lowest acceptable bid of two bids or estimates prepared by a commercial mover. WSDOT prefers to obtain three bids if possible. WSDOT will reimburse the bidder a reasonable amount to prepare requested bids. The agent should discuss and come to an agreement with movers either prior to or during the walk through of the displacement site. The bid prep fee can be based on a flat fee or hours of preparation.

    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 a photo and written inventory and working with the Relocation Agent to prepare a Request for Proposal and Moving Specification. See Chapter 13 for RES form and contact Headquarters for samples of appropriate RFPs.

    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, Request for Proposal and Moving Specification, and region recommendation are then submitted to the ADRAP for review/approval.

2. **Self Move, Negotiated Cost.** A self move payment may be based on one or a combination of the lowest acceptable bid of two bids or estimates prepared by a commercial mover or qualified Agency staff person if the move is considered small and uncomplicated and estimated move costs are less than $5,000. Payment for a low cost or uncomplicated move may be based on a single bid or estimate. The agent must provide a recommendation for approval to HQ requesting the use of a single bid or estimate.

    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 Request for Proposal and 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 Section 12-7.4. 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.** An actual cost self move may be necessary if time constraints or unreasonable circumstances prevent the agent from obtaining move bids or estimates.

   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. The agent reviews the supporting documentation submitted by the displaced business to make sure the charges are considered reasonable and necessary for the amount of personal property that was moved. If there is a question as to the reasonableness of the costs submitted, the agent may have to provide both the photo and written inventory to a commercial mover and ask for an estimate.

4. **Combination of Commercial and Self Move.** 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. A moving expense agreement should be signed prior to the move.

5. **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.

6. 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 in place of the item as 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 as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (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 in place of the item(s) for continued use at its location prior to displacement or the estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used a the acquired site.

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. This requirement can be waived by the ADRAP on a case by case basis depending on circumstances.

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.

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.

C. 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 as stated in "A" above.

D. 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. This requirement can be waived by the ADRAP on a case by case basis depending on circumstances.

E. 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.

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 reestablishment 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.

K. Refundable security and utility deposits at the replacement location.

12-7.2.3 Reestablishment 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. Redecoration or replacement of soiled or worn surfaces such as carpeting, paint, paneling.
5. Advertisement of the replacement location.
6. Increased cost of operations for two years at the replacement site for items such as rent, taxes, insurance, and utility costs.
7. 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.

12-7.2.4 Related Nonresidential Eligible Expenses

The following expenses, in addition to those move costs discussed in Section 12-7.2.1 are eligible for reimbursement provided they are actual, reasonable and necessary:

A. Connection to available nearby utilities from the right of way to the improvements at the replacement site. This does not include the costs of installing a well or septic at the replacement site. This constitutes the purchase of a capital asset per WAC 468-100-306(2)(a) and are considered not eligible for reimbursement.

B. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of WSDOT, a reasonable pre-approved hourly rate may be established.

C. Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by WSDOT. For clarification, the term "impact fees", as it appears in WAC 468-100-303(3), pertains strictly to heavy utility usage. The full sentence in that regulation reads: "Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency." The meaning of that sentence is that the prepositional phrase "for anticipated heavy utility usage" applies to both "impact fees" and "one time assessments."

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 for farms 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 and/or the personal property only schedule as set forth in the PPO section of Chapter 12. If the combination is used and the amount exceeds the $5,000 limit the agent must obtain move cost estimates by a qualified mover.

   1. The computation and supporting documentation are sent to the ADRAP for review and approval.

12-7.5 Claiming Non-Residential Entitlements

12-7.5.1 Timing Requirements

A. Claims for moving 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 related moving expenses should be made once the paid receipt or invoice has been submitted for payment. The agent should also supply HQ with a copy of the final product, i.e., newly printed business card, stationary, etc.

C. 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.

D. If the displaced business leases a replacement site, the agent will need to obtain copies of both the existing lease at the displacement site and the replacement site. Upon receipt, this information should be forwarded to HQ review. This information is necessary in order to help determine if the claims submitted are reasonable and necessary and will help to avoid double payments for those items covered by the new lease.

12-7.5.2.1 Re-establishment Expenses for Non-Occupant Owners

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. Agent should obtain copy of the insurance policy and/or loan documents from the landlord business to determine the replacement site is being purchased for business purposes and will not be occupied by the owner.

E. 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 minimum of two "Scope of Work"estimates from specialists prior to hiring them to provide professional services including acting as a move planner as discussed in the advisory services section of Chapter 12. The reimbursement to the displaced business may not exceed the lowest acceptable "Scope of Work" submitted by the specialist. 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 as determined by the department. 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 to determine its suitability for the displaced person's business operation includes but is not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of the site). WSDOT, at their discretion, may pre-approve a reasonable hourly rate. This portion of professional services is reimbursed as a related nonresidential eligible expense as set forth in WAC 468-100-303(2).

B. WSDOT will be responsible for the following:

1. Preparation of written/photo inventory with the help of the business owner.

2. Preparation of Request for Proposal/Moving Specifications to secure move bids to move all personal property to the replacement site.
3. Securing all move bids including all 3rd party bids.
4. Coordination of movers.
5. Monitoring all aspects of the move.
6. Post move inventory.
7. Obtaining inventory from business owner of all items needing to be reprinted that are considered obsolete prior to the actual date of the move.
8. Review and approval of all claims for relocation as it relates to the personal property.
9. Processing of all claims for payment.

C. Displaced Business Owner will be responsible for the following (items 8 thru 11 may be performed by the displaced business, WSDOT or a combination of both but can also be reimbursed if the displaced business hires a professional services specialist:

1. Working with WSDOT agent to prepare necessary inventory, identify all vendor owned equipment, and identify those items to be abandoned or replaced.
2. Securing a replacement site and notifying WSDOT agent when the replacement site has been located.
3. Notifying WSDOT agent of anticipated move date.
4. Preparing a sample file of all documents that must be reprinted due to change of address and/or phone number. Agent should provide displaced business with appropriate inventory form (see Chapter 13 for RES form).
5. Providing valuation of personal property to WSDOT agent for the purpose of obtaining replacement value insurance prior to the preparation of the Request for Proposal.
6. Obtaining pre-approvals from WSDOT agent before committing to financial obligations for the purpose of determining eligibility for reimbursement of claims.
7. Keeping WSDOT informed as it relates to their relocation.
8. Preparation of floor plan layout/configuration and flow of business operation as it relates to the personal property at the displacement site.

9. Planning of which personal property items will be moved, replaced, abandoned, discarded, or not moved.
10. 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
11. Verifying code requirements for installation of personal property currently grand-fathered at the displacement site that may require code modifications at the replacement site.

D. 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.

E. 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.

F. The use of a hired professional services specialist is strictly between the displaced business and the specialist. WSDOT will reimburse eligible expenses, based on adequate documentation, but WSDOT has no responsibility/liability for what the specialist does or how it is done.

12-7.5.4 Non-Residential Payment Claims

As a general rule, moving cost payments, reestablishment payments, or the fixed payment are not made prior to the completion of the move and/or the expense being incurred. However, exceptions arise where due to extenuating circumstances, the case merits special consideration. When these cases arise, the ADRAP may authorize advance payment of relocation claims.

A. **Advance Moving 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. Advance move payments should not exceed 25% of total move costs unless requested and approved by the ADRAP.

B. **Reimbursement of Non-Residential Moving Payments.** Moving payments for non-residential claims can be made directly to the displaced business, directly to a commercial mover or third party on behalf the displaced business owner or a combination.

1. 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.

2. 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 on behalf of the displaced business. 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.

3. 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 have the displaced business sign a claim (voucher) directing payment be made to said third party. 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.

C. **Required Documenation.** If a displaced business owner elects to lease a replacement site, the agent should obtain a copy of an executed lease and any applicable admendments for the replacement site from the displaced business owner as soon as feasible. The agent should also obtain a copy of the existing lease if applicable.

1. The lease will help the agent determine the reasonableness and level of reimbursement for potential claims associated with the reestablishment of the business, i.e., square footage requirements, increased cost of doing business based on property taxes, property insurance, utilities, lease costs, etc.

2. The lease is necessary to verify that duplicate payments are not made on items that will be covered in the lease at the replacement site by the building owner.

12-7.5.4.1 Processing and Payment of Claims

A. When the displaced business is ready to make claims for any or all of their relocation entitlements, including moving costs, reestablishment payments and related moving costs, the relocation agent provides HQ Relocation Reviewer with the appropriate recommendation for approval and the displaced business with appropriate forms for making the claim and secures necessary documentation from the displaced business, which includes a W-9 form.

B. Once these forms are signed by the displaced business, 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.

12-7.6 Abandonment of Personal Property

The agent should work closely with the displaced business to remove all personal property items from the right of way. The agency will pay the cost to move the items as set forth in Section 12-7.2 – Actual Move Costs and appropriate calculations should be performed and required notices provided. Disposal costs are not paid in addition to the move costs. The agent should not encourage items to be left on the property. In the rare instance personal property is left at the displacement property, the relocation agent will need to obtain ADRAP approval prior to obtaining a signed abandonment letter from the displaced business stating the displaced person is abandoning the personal property to the state and will not claim payment for moving said abandoned property. Once ADRAP approval is obtained, the moving expense attributable to the abandoned property should be deducted from the displaced business' final move payment. (Refer to Chapter 13 for the RES form.)
The relocation agent should make the necessary arrangements through the relocation assistance program to hire a mover to clear the property or check with Property Management to get the items removed from the property. If the property is clear upon vacate inspection, the agent should not obtain a signature from the displaced business on the abandonment notice.

12-8 Mobile Homes

Mobile homes as defined in Chapter 49 of the Code of Federal Regulations (49 CFR), may be determined to be either real property or personal property during the appraisal process. As detailed in Chapter 4, the department may acquire mobile homes as real or personal property. The acquisition of the mobile home is accomplished as outlined in Chapter 6. A Mobile Home Worksheet (Form RES-220) is available to assist the RESM with determining whether or not to acquire a mobile home. A mobile home determined to be personal property cannot be acquired under eminent domain or the imminent threat of the State's exercise of its rights of eminent domain.

The relocation section in each region should obtain move costs from mobile home movers and subcontractors within their area to establish typical costs to tear down, move, set up, and reconnect utilities for a single wide, double wide, and triple wide mobile home. These typical costs and research information should be recorded on the Mobile Home Move Cost Worksheet (Form RES-546) and given to the appraisal department on an annual or as needed basis. These typical costs established can be used by the appraisal department each time a mobile home is within the acquisition area and considered personal property.

12-8.1 Eligibility

A. Owners and/or occupants of mobile homes, as defined in WAC 468-100-002, that are displaced by a public project may be eligible for different types of relocation replacement housing 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.

   4. A displaced person rents the mobile home and owns the site on which the mobile home is located.

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.

12-8.2 Mobile Home Relocation Situations

The entitlement relating to personal property is the payment of the cost to move such personal property when it is economically feasible. However, this can vary when dealing with mobile homes depending on the following situations:

A. Mobile home is considered personal property and can be moved to a replacement location:

1. The mobile home will not be acquired by the department.
2. A replacement housing payment (price differential payment) for the mobile home will not be calculated for an owner-occupant. However, a replacement housing payment (rent supplement or price differential payment) for the site will be computed.
3. The owner of the mobile home may be reimbursed for the actual and reasonable costs which includes cost of moving the mobile home from the displacement site to an acceptable replacement location, for making that mobile home meet decent, safe, and sanitary standards, and per diem costs while the mobile home is being moved and reconnected. Reasonable per diem rates should be established prior to the move.

   a. 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 as well as any costs to bring the mobile home up to code or to meet DSS standards.

   b. 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.

   c. 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.

   d. Any utility connections that are not included in the move estimates will have to be paid as incidental move expenses.

   e. Mobile Home Park Entrance Fees. If a displaced mobile home owner is required to pay a non-refundable entrance fee to move their mobile home into a mobile home park, that fee will be paid as an incidental moving cost.

f. Relocation will need to address personal property taxes on all mobile homes being moved by the department that are considered personal property. Delinquent personal property taxes should be handled as a Last Resort incidental relocation expense only if the displaced person does not have the financial means to bring the taxes current.

B. Mobile home is considered personal property and cannot be moved to a replacement location or move is considered not cost effective:

1. The RESM can authorize the purchase of the mobile home. Upon authorization the department will acquire the mobile home through the acquisition process according to procedures set forth in Chapter 6. ***Note:*** Any personal property taxes will be handled by Acquisition and the mobile home will not be salvaged back to the owner.

2. The relocation agent will calculate a replacement housing payment depending on occupancy status (owner/tenant)of the unit. This could include both a price differential payment and a rent supplement payment.

C. Mobile home considered real estate:

1. The mobile home will be acquired through the acquisition process as real estate according to the procedures set forth in Chapter 6.

2. No payment will be made to the mobile home owner for moving it to a replacement site.

3. If the owner retains salvage of the mobile home no moving entitlement will be paid to disconnect, move, and reconnect the mobile home. Salvage of the mobile home needs to be consistent with procedures set forth in Chapters 6 and 11.

4. The relocation agent will calculate a replacement housing payment depending on occupancy status (owner/tenant) of the unit.

12-8.3 Replacement Housing Payments for Mobile Home Owners

12-8.3.1 Circumstances Requiring Replacement Housing for Mobile Home Owners

The following list of circumstances will be addressed during the appraisal process in accordance with the procedures outlined in Chapters 4 and 6.

A. If the mobile home being displaced will not meet entrance requirements for mobile home parks in the area, a replacement mobile home will have to be made available that will meet 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.

C. If a mobile home cannot be relocated because there is no available comparable replacement site, a replacement mobile home will have to be made available to the displaced person.

D. If the RESM authorizes the purchase of the mobile home because it has been determined the mobile home is not, and cannot be made decent, safe, and sanitary and/or determined not to be cost effective to move the mobile home, 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/tenant are the same as for a regular residential housing situation. The requirements for an owner/tenant 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 for Mobile Home's Acquired by the Agency

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 of mobile homes being acquired by the department as either real property or personal property as determined by the RESM and as established in Chapter 4 are as follows:

A. Mobile Home Relocation Situations

1. If the displaced person owns both the mobile home and the site, the relocation agent should calculate the following:

   a. A Price Differential for the mobile home and Price Differential for the site; or

   b. A single Price Differential using both the mobile home and site.

2. If the displaced person owns the mobile home, but rents the site, the relocation agent should calculate the following:

   a. A Price Differential for the mobile home and a Rent Supplement for the site.

      (1) For a 180-day owner occupant of a rented mobile home site their rental assistance payment may be used to rent a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

3. If the displaced persons rents the mobile home and the site, the relocation agent should calculate the following:
   a. A Rent Supplement for the mobile home and a Rent Supplement for the site; or
   b. A single Rent Supplement if the lot rent is included in the mobile home rent.
4. If the displaced person rents the mobile home and owns the site on which the mobile home is located, the relocation agent should calculate the following:
   a. A Rent Supplement for the mobile home and a Price Differential for the site.

B. **Taxes.** The transfer of a mobile home is subject to either real estate excise tax or sales tax depending on the characteristics of the situation, regardless of whether the mobile home is classified as real or personal property. If the actual replacement is a mobile home the acquiring agency will pay sales tax as an incidental expense if:

- The purchase of the mobile home is the initial retail sale of the mobile home.
- The mobile home is purchased from a dealer's lot, regardless of the mobile home being new or used.
- The removal of the mobile home from the land is a condition of the sale.
- The mobile home is not affixed to the land by a foundation and does not have connection for utilities.

The buyer pays sales tax when they transfer title. The tax is based on the purchase price and the county taxes where the mobile home is located. Sales tax rates can be obtained by visiting the Washington State Department of Revenue website at:

http://dor.wa.gov/content/findtaxesandrates/salesandusetaxrates/lookupataxrate/

C. **Transfer Fees.** There are transfer fees associated with transferring the title of a mobile home into the purchaser's name. Transfer fees should be handled as an incidental expense and paid based on the actual cost. This information can be located on the Department of Licensing Web site at:

www.dol.wa.gov/vehicleregistration/fees.html

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.

C. **Trading in a Mobile Home.** If a mobile home is considered personal property and the region RESM makes a decision to administratively purchase the mobile home and the owner decides to use the mobile home as a trade-in on the purchase of a replacement home instead of selling (or transferring title in the case of a zero value), the price differential payment will not be adjusted to make up the difference if they take a loss on the mobile home.

D. **Mobile Home Determined to have Zero Value.** It is acceptable to make an administrative offer to purchase a mobile home even if the value of the mobile home is determined to be zero. The acquisition agent should follow the procedures set forth in Chapter 6. It is highly recommended that the relocation agent accompany the acquisition agent when delivering the letter so the mobile home owner is aware of the relocation assistance available to help them obtain replacement housing.

E. **Two-Part Insurance for Mobile Homes That Will Be Moved to a Replacement Location.** Mobile home insurance supplied by a mobile home moving company consists of liability insurance and cargo insurance ("moving insurance"). Liability insurance covers damage to the mobile home prior to or after the move, during tear down and set up, and cargo insurance covers damage to the mobile home during transit. In addition to the moving insurance, as part of Advisory Services, it is recommended that the displaced person has homeowners insurance prior to the relocation as the insurance provided by the mover does not cover vandalism during the move of the mobile home.

12-9 Personal Property Only (PPO) 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 Section 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 Section 12-7.4. 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.	$150.00 each that require towing

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.

12-10 Voluntary Transactions

12-10.1 Requirements

In order to be considered voluntary, the transaction must meet all of the conditions outlined in WAC 468-100-101.

12-10.2 Relocation Eligibility

Refer to WAC 468-100-002(15) for information relating to mutual acceptance of the offer to purchase prior to a tenant becoming eligible to receive relocation assistance.

12-11 Temporary Relocations

There are circumstances where the acquisition of real property takes place without the intent or the necessity that an occupant of the property be permanently displaced. Because such occupants are not considered “displaced persons” 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.

If a temporary move is authorized by the ADRAP for a residential or non-residential displacement and later withdrawn, all actual, reasonable, and necessary out-of-pocket expenses incurred in connection with the temporary relocation will be reimbursed to the displaced person(s) as related moving costs and not subject to the limitations of the displaced persons permanent relocation assistance entitlements.

Chapter 13 Contents — Forms

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The forms listed for various chapters can be located as follows:

Access for WSDOT Employees

The WSDOT Agency Forms are located at:
wwwi.wsdot.wa.gov/fasc/adminservicesforms

The RES Forms for Property Management and Acquisition are located at:
wwwi.wsdot.wa.gov/design/realestateservices

The RES Forms for Appraisal and Relocation are located at:
www.wsdot.wa.gov/realestate or
wwwi.wsdot.wa.gov/design/realestateservices

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) for Appraisal and Relocation 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.

Appraisal Forms (Chapters 4 and 5)

WSDOT Agency Forms

220-105	Environmental Checklist for Surplus Property Disposal

Real Estate Services Forms

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 Sketch and Photographs
RES-208	Short Form Template
RES-210	Market Data

RES-210B	Sale Sketch and Photographs
RES-211	Appraisal Assumptions and Limiting Conditions
RES-212	Salient Information
RES-213	Abbreviated Appraisal Report Format
RES-214	WSDOT Review DV Document
RES-214A	Fee Review DV Document for WSDOT
RES-214B	Local Agency Certification of Value
RES-215	PFE Parcel Worksheet
RES-216	Administrative Offer Summary
RES-217	Residential Realty/Personalty Report
RES-218	Commercial or Industrial Realty/Personalty Report
RES-219	WSDOT Surplus Appraisal
RES-220	Mobile Home Worksheet – Personal Property

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
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-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	Real Property Voucher (Excel)
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-332	Notice of Lien
RES-333	Request to Accept Encumbrance
RES-334	Tax Set Over Letter
RES-335	Fixtures and Improvements Agreement
RES-337	Escrow Agreement
RES-348	Emergency Permit & Right of Entry
RES-350	Offer Letter
RES-351	Revised Offer Letter
RES-353	Right of Way Parcel Transmittal
RES-365	Individual Notary
RES-366	Corporate Notary
RES-367	Attorney In Fact Notary
RES-368	Self and Attorney In Fact Notary
RES-369	Guardian, Executor, Administrator Notary
RES-370	Mayor City Commissioners Notary
RES-371	County Commissioners Notary
RES-372	School District Notary
RES-373	Signature By Mark Notary
RES-374	Partnership Notary
RES-375	Trustee Notary
RES-376	Limited Liability Company Notary
RES-377	Director RES Notary
RES-381	RW Manual Miscellaneous Clauses Chapter 9

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)

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 (Fixed Payment)
RES-507	Notice of Eligibility, Entitlements, & 90-Day Assurance (Residential Owner)
RES-507a	Notice of Revised Price Differential (Residential Owner)
RES-508	Notice of Eligibility, Entitlements, & 90-Day 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 Interest Differential Payment (MIDP)
RES-514	Incidental Purchase Expense Worksheet
RES-515	Documentation of Living Expenses
RES-516	Price Differential Entitlement Instructions

RES-516a	Down Payment Assistancntitlement Instructions
RES-517	Vacate Inspection
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	Reestablishment Expenses Worksheet
RES-524	Eligibility Report
RES-525	(DSS) Replacement Dwelling Inspection Report
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	Residential Occupancy Survey
RES-533	Business/Farm/NPO Occupancy Survey
RES-534	Personal Property Only Occupancy Survey
RES-535	Pre Move Inventory – Business
RES-536	Final Claim Letter – Nonresidential
RES-536a	Final Claim Letter – Residential
RES-537	Relocation Assistance Voucher
RES-538	Application for Fixed Payment
RES-539	Monthly Income Verification
RES-540	Move Expense Agreement – Residential
RES-540a	Move Expense Agreement – Nonresidential
RES-541	Housing Comparison Worksheet
RES-542	Price Differential Report
RES-543	Rent Supplement Report
RES-544	Notice of Relocation Non-Eligibility
RES-545	Non-Residential Obsolete Printed Items
RES-546	Mobile Home Move Cost – Personal Property