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Please contact Dianna Nausley at 360-705-7329 or nausled@wsdot.wa.gov with comments, questions, or suggestions for improvement to the manual.

For printed manuals, page numbers indicating portions of the manual that are to be removed and inserted are shown below.

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Project Development Division

Real Estate Services

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Foreword

This manual provides guidance on statewide policies and standards for real estate transactions to both internal and external customers.

The Washington State Department of Transportation (WSDOT) follows the federal regulations found in the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended, and is guided by Chapters 8.04, 8.25, 8.26, and 47.12 RCW which are the state laws that control the appraisal, acquisition, condemnation, relocation, and property management processes. The intent of these laws is to assure fair and equitable treatment of displaced persons, to encourage and expedite acquisitions by negotiations, and provide direction on properly managing properties once acquired by the department.

Chapters 468-30 and 468-100 WAC contain the administrative regulations pertaining to the appraisal, acquisition, condemnation, relocation, and property management processes. WSDOT publicizes the regulations to assure implementation of state and federal laws.

Updating the *Right of Way Manual* M 26-01 is an ongoing process and revisions are issued on an annual basis. This is an ***electronic only*** manual and no printed copies will be provided. The manual can be accessed through the Publications Services Web page at www.wsdot.wa.gov/publications/manuals/index.htm or the Real Estate Services Web page at www.wsdot.wa.gov/realestate/.

Comments, questions, and improvement ideas are welcome and should be submitted via email to Dianna Nausley, Headquarters Real Estate Services, at nausled@wsdot.wa.gov.

/s/

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Chapter 1 Administration and Operation

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1-1 Personal Conduct

1-1.1 Code of Ethics

Real Estate Services (RES) staff shall at all times conduct themselves in an ethical manner (Chapter 42.52 RCW *Ethics in public service*).

1-1.2 Political Activity

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

1-1.2.1 Hatch Act

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

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

   1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

   2. Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

   3. Be a candidate for public or political party elective office in a partisan primary, general, or special election.

1-1.3 Sales to Employees Prohibited

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

1-1.4 Rendering Emergency Assistance

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

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

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

1-2 Personnel Selection

1-2.1 Washington State Civil Service System

All RES personnel are covered by the Washington State Civil Service System which affords them protection similar to that provided by the Federal Civil Service System. RES is also represented by the International Federation of Professional and Technical Engineers Local 17 Bargaining Agreement and some of the staff by the Washington State Federation of State Employees (WFSE) Bargaining Agreement.

1-2.2 Classification Titles

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

3. Knowledge and understanding of procedures set forth in Chapters 11 and 13 of this manual.

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

1. Experience and/or training in eminent domain acquisitions and extensive practical experience in providing relocation assistance to displaced persons under the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.
2. Knowledge and understanding of relocation laws and federal and state regulations.
3. Knowledge and understanding of procedures set forth in Chapters 10, 12, and 13 of this manual.

General criteria for competitive selection will include:

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

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

A consultant may be removed for cause:

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

1.11.4 Approval and Signature Requirements

Contracts shall be executed by the HQ RESPA and task orders shall be executed the RESM or the appropriate Headquarters program manager.

1-12 Relocation Review Board

Reviews and takes action on requests for reconsideration by relocation displaced persons who are aggrieved as to eligibility for, or the amount of any relocation assistance payments. See Chapter 12 and consists of:

1. The HQ RESPA or delegatee.

2. The Regional Administrator from the affected region or delegatee except from the office of Real Estate Services.

3. A relocation specialist from a regional office other than where the displacement occurred that has the knowledge skills and abilities for the type of displacement involved in the appeal.

1-13 Right of Way Certification

1-13.1 State Projects

1-13.1.1 General

Right of way is certified clear by the region with a "Right of Way Certificate" prior to advertising the physical construction of the project. Where federal highway funds are anticipated, the project is recertified by Headquarters to FHWA. Projects funded in whole or in part by FHWA cannot proceed to contract until notification of approval is received from FHWA.

1-13.1.2 Procedures

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

B. Upon receipt of a copy of the PS&E, the Special Acquisitions/ Certifications Program Manager and the RESM reviews the status of right of way required for the project.

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

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

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

   1. **All Right of Way Acquired** – Legal and physical possession has been obtained but trial or appeal of cases may be pending. All occupants have vacated the right of way and the agency has the right to remove any remaining improvements.

2. **Right to Occupy All Right of Way Acquired** – Trial or appeal of some parcels may be pending and some parcels may have right of entry or possession and use only. All occupants have vacated the right of way and the agency has the right to remove any remaining improvements.

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

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

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

1-13.2 Local Agency Projects

1-13.2.1 General

Federally funded project activities of a local agency, such as a county, city or town, are monitored for FHWA by the Highways and Local Programs Division with Real Estate Services monitoring the acquisition and certification of right of way. To qualify to acquire right of way, an agency must submit and have approved right of way procedures prior to starting any acquisition activities, and follow the procedures and guidelines in this manual and in Chapter 25 of the *Local Agency Guidelines* M 36-63.

1-13.2.2 Procedures

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

B. The coordinator works closely with the local agencies from the outset of the project to insure that all right of way is acquired according to the guidelines. The extent of the involvement is determined by the expertise

of the agency staff. The Coordinator will perform a review of the project files prior to submitting a certification through Highways and Local Programs to Real Estate Services in Headquarters.

C. The Local Agency Projects/Certifications Section Manager keeps files on each agency to include their approved procedures, agreements for aid, and project certifications. Upon receipt of the local agency certificate, prepares a certificate to FHWA as set forth in Chapter 25 of the *Local Agency Guidelines* M 36-63 and submits it to FHWA with a copy to Highways and Local Programs.

D. Highways and Local Programs provides notification that the certification has been sent to FHWA for approval. Upon receipt of approval, Highways and Local Programs will notify the local agency that the project can be advertised.

2-1 Department Organization
2-2 Headquarters Real Estate Services Office Table of Organization
2-3 Region Organization
2-4 Organization of the Attorney General Office

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

2-1 Department Organization

Refer to www.wsdot.wa.gov/about/ExecOrgChart.htm to see the Agency Organization Chart.

2-1.2 Responsibility and Authority

2-1.2.1 Washington State Transportation Commission

Refer to www.wstc.wa.gov/ for information about the Washington State Transportation Commission.

2-1.2.2 Executive Officers

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

The Deputy Secretary is the Chief Operating Officer for WSDOT and assists the Secretary with high-level legislative, legal, policy, and human resources issues, along with high-level engineering, environmental, construction, and planning issues.

2-2 Headquarters Real Estate Services Office Table of Organization

2-2.1 Headquarters Real Estate Services Progam Administrator (HQ RESPA)

A. Administers statewide the operation of Real Estate Services; manages the Headquarters Real Estate Services Office which is the repository of the official records of all real property functions; is the chief branch policy-maker and coordinator of functions of the seven Region Real Estate Services Managers (RESM) in their relationship with the Federal Highway

Administration (FHWA), Attorney General Office, Public Transportation and Construction Divisions' employees bargaining units, Headquarters offices, and other offices of state government and railroad corporations on all agency real estate matters.

B. Is a member of the Relocation Review Board.

C. Has principal duties consisting of:

1. Maintaining a policy and procedural manual current with state law and federal regulations for compliance by all RES personnel.
2. Advising WSDOT personnel at all levels in RES matters.
3. Monitoring employee performance, recommending training, and/or needed corrective action.
4. Coordinating with the WSDOT Human Resources Director in personnel management and in collective bargaining negotiations.
5. Responding to state and federal audits of RES performance.
6. Providing assurances to FHWA and other offices of government at all levels, of availability of replacement housing for persons displaced by highway construction projects.
7. Obtaining advance approvals of project replacement or individual "housing of last resort" plans, or proposed policy deviation needed from FHWA or other offices of government in relocation assistance, right of way appraisal, acquisition, or property management.
8. Reviewing, deciding on acceptance, oversight, and/or compliance of all acquisition transactions.
9. Reviewing and deciding on the acceptance of surplus property rentals, as recommended by region offices, or sales of surplus property.
10. Deciding on concurrence by the department or making recommendations in pretrial or stipulated settlements proposed by Assistant AG.
11. Administering the functions of the acquisition; Title Condemnation and Records; Property Management; Relocation; and the Local Agency Projects/Special Acquisitions/Certifications Sections.
12. Carrying out other assignments made by the Headquarters Design Office.

2-2.3 Property Management Program Manager

The Property Management Program Manager:

A. Manages the statewide Property Management Program by assuring compliance with departmental operating regulations. The position reports to HQ RESPA.

   1. Directing the review and inventory control of all excess property and sundry site (capital plant and materials sites) parcels.
   2. Directing the review of property disposition transactions to assure compliance with regulations and the validity of judgmental factors.
   3. Providing technical advice on property management matters to others.
   4. Directing the statewide promotion and sale of surplus properties including land and improvements by both auction and direct sale.
   5. Directing the statewide promotion and operation of rentals, leases, airspace agreements, and joint use.
   6. Inspecting and maintaining WSDOT-owned properties other than infrastructure.
   7. Developing and implementing discipline-specific training.
   8. Other functions as required by the HQ RESPA.

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

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

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

2-2.4 Relocation Assistance, Program Support, and Local Agency/Certification Program Manager

The Relocation Assistance, Program Support, Local Agency/Certification Program Manager reports to the HQ RESPA:

A. Manages the statewide Relocation Assistance Program.

   1. Managing the Headquarters Relocation Assistance Section.
   2. Reviewing and approving all incoming claims.

3. Maintaining official relocation files.
4. Coordinating and scheduling reconsideration/appeal of determinations and benefits, when necessary.
5. Providing technical advice and guidance on relocation matters to others.
6. Assuring statewide compliance of relocation matters under the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.

B. Manages the statewide Program Support Program:

1. Managing the Program Support Section.
2. Developing and implementing discipline specific training.
3. Records retention of all Real Estate office official records.
4. Coordinating annual revisions of the *Right of Way Manual*, Real Estate brochures, and forms.
5. Coordinating Public Disclosure Requests (PDR) for the Headquarters Real Estate office.

C. Manages the statewide Local Agency/Certification Program:

1. Managing the Local Agency/Certification Section.
2. Assuring statewide local agency compliance under the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, as amended.
3. Training and monitoring the region local agency coordinators responsible for the acquisition of right of way by local agencies on federally funded projects.
4. Working through Highways and Local Programs to approve and monitor local agency's acquisition procedures and train the agencies in proper use of the procedures. Monitoring and updating Chapter 25 of the *Local Agency Guidelines* M 36-63.
5. Preparing Right of way Certificates for all acquisitions on federally funded projects prior to construction project advertisement. Monitoring and recertifying any projects certified with exceptions (#3 certification).
6. Maintaining permanent files on local agencies to include approved procedures, local agency agreements, and project certifications, etc.

D. Advising the HQ RESPA and regional offices in program matters.

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

F. Other functions as required by the HQ RESPA.

2-2.5 Appraisal and Appraisal Review Program Manager

The Appraisal and Appraisal Review Program Manager:

A. Manages the statewide Appraisal and Appraisal Review Program. The position reports to the HQ RESPA. The principal duties of this position are:

   1. Managing the Headquarters appraisal office. All review appraisers report to this position. Headquarters staff appraisers report to this position.

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

   3. Issuing operating procedures that implement current state law and federal regulations.

   4. Managing the Approved Fee Appraiser and Review Appraiser List.

   5. Developing and implementing discipline specific training.

B. Performs other functions as required by the HQ RESPA.

2-2.6 Acquisition and Title, Special Acquisition, and State Project Certification Program Manager

The Acquisition and Title, Special Acquisition, and State Project Certification Section Manager reports to the RESPA:

A. Manages the statewide Acquisition and Title Review functions and the records within Headquarters. The principal duties of this position are:

   1. Directing the review, final processing, oversight, and compliance of all real property acquisition and damage claim files. Assures legal sufficiency and compliance with state laws and departmental regulations.

   2. Directings the preparation of legal descriptions and exhibit maps and determinations of interested parties for use by the Attorney General Office in eminent domain proceedings.

   3. Making recommendations for procedures concerning real property title and document processing functions for approval by higher authority.

4. Preparing affidavits and/or testifying in court as the department's expert witness in real estate matters involving titles and legal descriptions.

5. Performing final review and mapping of surplus property conveyance documents.

B. Manages the statewide Special Acquisition section.

C. Manages the statewide Right of Way Certification section.

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

2. Preparing Right of Way Certificates for all acquisition on federally funded projects prior to construction project advertisement. Monitoring and recertifying any projects certified with exceptions (#3 certification).

D. Supervises the Real Estate Services administrative activities which include:

1. Maintaining, indexing, and storage of the departments official real property acquisition transaction files.

2. Maintaining, indexing, and storage of the official Real Estate Services ownership maps (transportation project right of way and sundry site plans) depicting property and/or property rights acquired or conveyed by the department.

E. Develops and implements discipline specific training.

F. Performs other functions as required by HQ RESPA.

2-3 Region Organization

2-3.1 General

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

B. The relationship of the Region Real Estate Services (RRES) offices within WSDOT is shown under Engineering and Regional Operations on the Organization Chart at www.wsdot.wa.gov/about/execorgchart.htm.

C. The geographic boundaries of each region are provided on the WSDOT internet website at www.wsdot.wa.gov/. If the limits of a particular highway project extend across the boundaries of a region, the responsibilities are assigned to either of the two regions by working agreement based on a case evaluation.

2-3.2 Responsibility and Authority

2-3.2.1 Regional Administrator

A. The Regional Administrator is responsible to the Assistant Secretary of Engineering and Regional Operations (Chief Engineer).

B. The Regional Administrator has final authority in the region for decisions on highway matters within the framework established by departmental operating regulations in the form of Secretary Executive Orders, Directives, Policy Statements, Instructional Letters, and department manuals.

C. The Regional Administrator exercises administrative and management supervision over the Region RES Office as follows:

1. Furnishes the facilities and supplies, and provides for the staffing required for the effective accomplishment of the Right of Way Program and its related activities.

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

2-3.2.2 Region RESM

The RESM:

A. Is responsible to the Regional Administrator for managing the Region RES Office.

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

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

   a. Managing all Region Real Estate Services functions.

   b. Providing technical supervision and in service training in all Region RES program disciplines.

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

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

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

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

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

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

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

j. Directing the operation of the Relocation Assistance Program for project displaced persons.

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

l. Directing, reviewing, processing, and approving real property acquisition (excluding condemnation files) and damage claim files that pertain to their specific region. Assuring legal sufficiency and compliance with state laws and departmental regulations.

m. Advising and assisting local public agencies (LAs) in completing their right of way acquisition programs when requested. Reviewing LA acquisitions as needed to assure compliance with state and federal requirements.

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

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

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

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

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

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

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

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

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

3. Obtaining technical advice from the HQ RESPA (or his designee) on the following:

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

   b. Training of personnel.

   c. Compliance with guidelines on right of way matters.

2-4 Organization of the Attorney General's Office

2-4.1 General

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

2-4.2 Responsibility and Authority

2-4.2.1 Attorney General

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

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

2-4.2.2 Chief Counsel

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

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

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

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

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

3-2 Glossary

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

Access Control – The limiting and regulating of public and private access to Washington State's highways as required by state law.

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

Administrative Offer Summary (AOS) – The approved form used as a basis for offers on low-value, uncomplicated process. Also referred to as a waiver of an appraisal for such properties.

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

Appraisal – An opinion of value; the act or process of developing an opinion of value.

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

Assigns – Those who take from the assignor whether by conveyance, devise, descent, or operation of law.

Attorney in Fact – A fiduciary (agent, representative) appointed by and empowered to act for a principal (a person or a corporation). The attorney in fact for a person is empowered by the principals having executed a power of attoney. The power of attoney may be either for a general or for a specific purpose. The attorney in fact may act only while the principal is alive and of sound mind, when the power of attoney permits the act, and provided that the power of attoney has not been superseded or revoked. The Attorney(s) in Fact of a corporation are those officers of the corporation who are empowered by the corporation's articles of incorporation to act for the corporation.

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

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

Condemnation – The department's use of eminent domain through court proceedings for lands and/or property rights needed for highway projects.

Date

Clear Date – Discipline specific dates displayed in the parcel summary in IRIS indicating that the parcel is ready to certify as available for construction.

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

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

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

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

Relocation Certified Clear Date – The date upon which all displaced persons and/or personalty are off the parcel.

Deed

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

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

Turnback – A general term including certifications and relinquishments used to describe the conveyance of real property to local agencies. Property used during construction phase returned to a party after work is complete.

Uneconomic Remnant – A parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the agency has determined has little or no value or utility to the owner (49 CFR Part 24.2(27)).

Washington Pattern Jury Instructions (WPI) – The collection of instructions that are given to a jury by the judge for deliberation during a trial. The instructions are based on case law resulting from civil lawsuits.

WSDOT Parcel Number – A number assigned to a parcel geometry. Parcels have a region code (1-6) and then a dash followed by a five digit number.

3-3 The Acquisition Process

A. **Project Scoping** – In the early stages, RES personnel may be involved in interdisciplinary teams to identify ownerships and participate in analyses of various routes.

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

B. **Appraisal/Review** – A separation of functions maintains the integrity of the acquiring agency's transactions. Thus, the appraisal, appraisal review, and negotiations for a parcel are performed by three different persons. If two or more appraisals are required for a parcel, only one appraisal is assigned to a staff appraiser from the region in which the parcel is located. The additional appraisals are made by either a staff appraiser from another region or a fee appraiser. Uncomplicated acquisitions of relatively low value (not greater than $25,000) are identified during the Project Funding Estimate process. Administrative offers are prepared for these parcels and an appraisal is not required unless requested by the property owner or if condemnation is commenced.

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

   The Review Appraiser on staff examines the appraisal to ensure its adequacy and accuracy. The Review Appraiser prepares a Determination of Value (DV) that establishes the just compensation to be paid by the state for the needed property and property rights. The just compensation

includes amounts for the value of the lands and improvements acquired for the project, damages, and deductions for special benefits. DV data are input into the computer; thus, enabling the negotiations process. A DV prepared by a fee Review Appraiser does not authorize just compensation, nor does the fee Review Appraiser declare an uneconomic remnant. Only an employee of the agency can do either of these functions.

C. **Negotiations** – When the approved DV or AOS is available, the RESM assigns the parcel for negotiations. The negotiator works with all parties to achieve a negotiated settlement at just compensation for the needed property and property rights. The negotiator makes the state's offer both orally and in writing to the property owner or his representative. The negotiator keeps a diary of all contacts and events in such detail that he can attest to the facts therein.

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

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

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

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

Upon arrival in Headquarters, the parcel file is subjected to review in the Acquisition and Title Section.

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

assistance, concurrences, etc. The AG makes computer inputs that indicate the status and disposition of the case.

E. **Closing** – The state's payment becomes available to the property owner by one of the following means:

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

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

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

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

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

3-4 Why We Do What We Do

3-4.1 Revised Code of Washington

Chapters 8.25 and 8.26 RCW are the state laws that control the acquisition process. The intent of these laws is: to assure fair and equitable treatment of displaced persons and to encourage and expedite acquisitions by negotiations.

These laws require that Real Estate Services personnel know and do many things:

A. **Appraisal**

1. The real property must be appraised. This includes the land and all improvements on or adversely affected by the acquisition.
2. The property owner must be given an opportunity to accompany at least one of the acquiring agency's appraisers during inspection of the property.
3. Any increase or decrease in value due to the proposed project is ignored in appraising the fair market value of the property.
4. Physical deterioration within the control of the owner is not disregarded.
5. Uneconomic remnants are identified and valued.
6. Since the improvements may belong to a tenant, improvements are valued at both their contribution to the fair market value of the real property and at their fair market value for removal from the real property. This is done because the tenant will be offered the greater of these values for tenant-owned improvements.
7. In the report, the appraiser itemizes the opinion of the fair market value of the land, improvements and uneconomic remnants, and damages and special benefits to the remainder.
8. If the property is improved, the Realty/Personalty Report (RES-217 or RES-218) must be included in the Addenda.
9. If the property is improved, market rent must be included in the report.

B. **Agency Appraisal Review Staff**

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

4. The Review Appraiser has the authority to declare uneconomic remnants if warranted, which allows the agency the opportunity to offer to purchase it from the property owner at the property owner's discretion.

C. **Negotiations**

1. The date of initiation of negotiations cannot precede the date of establishing the just compensation. For WSDOT this means that an approved DV or AOS must be available before negotiations can begin.
2. Every reasonable effort is made to acquire real property expeditiously and by negotiations.
3. No coercive action is taken to compel agreement on the price.
4. The acquiring agency promptly offers to acquire the property for the full amount of the just compensation.
5. The acquiring agency provides the property owner with a written statement of the just compensation. This statement itemizes the amounts for the land, improvements and damages, and deductions for special benefits.
6. The acquiring agency offers to purchase any uneconomic remnant.
7. The acquiring agency pays an evaluation allowance (not exceeding $750 per parcel) to defray the actual and reasonable costs of interested parties' evaluation of the agency's offer.
8. The acquiring agency pays the property owner's fair and reasonable expenses for:
    a. Recording fees, transfer taxes, and other expenses incidental to conveying real property.
    b. Penalties for full or partial prepayment of any preexisting mortgage.
    c. The prorated portion of any prepaid real estate taxes that are allocable to the earlier of the date of vesting title in the acquiring agency or the date of the agency's acquiring possession of the property.
9. The owner is not required to surrender possession of real property before the payment is made available or is deposited with the court in condemnation cases.

10. Construction is scheduled so that no occupant is required to move without at least 90 days written assurance of the earliest date they will be required to vacate. If this requires a certification with exceptions to allow a project to go to ad, it should have prior approval from the appropriate authority and the certification should include all necessary justification.

11. No occupant is required to move from a dwelling until the acquiring agency has determined the rents, prices, and availability of qualified replacement housing.

12. Temporary occupancy after acquisition is by rental agreement at market rent.

13. If it becomes necessary to condemn the property, the acquiring agency files the proceedings. The property owner is not forced to file an inverse condemnation.

14. If the tenant owns the improvements:

    a. Payment for the improvements may not result in duplicate payments.

    b. The land owner must disclaim all interest in tenant-owned improvements.

    c. The tenant is offered the greater of the improvement's contribution to the fair market value of the property or the fair market value of the improvements for removal from the real property.

    d. In accepting the offer, the tenant must transfer all rights, title, and interest in the improvements to the acquiring agency.

    e. The tenant is not obligated to accept the acquiring agency's offer.

D. **Property Management** – After payment becomes available to the owner, continued occupancy is through execution of a rental agreement at market rent.

E. **Relocation Assistance**

1. The Relocation Assistance Advisory Program:

    a. Determines the need for relocation assistance by displaced persons.

    b. Provides current information on availability, prices, and rentals of DSS housing and commercial properties.

    c. Assists a displaced resident, business, or farm in obtaining and becoming established in a new location.

d. Provides other advisory services to minimize hardships on displaced persons.

e. Coordinates relocation activities with other agencies to assure the compatibility of the relocation concepts, aims, objectives, actual relocations, and land use plans.

2. The acquiring agency must assure that:

   a. Relocation assistance and payments are provided fairly, reasonably, and uniformly.

   b. Eligible displaced persons are paid promptly, or, in hardship cases, in advance.

   c. Prior to displacement, there are enough qualified dwellings available to fill the needs of all displaced persons.

   d. Any aggrieved party may have their case reviewed by the reviewing officer of the acquiring agency once they have followed the correct appeals process.

3. Every eligible displaced person receives a choice of one of the following moving expense payments:

   a. Actual and reasonable expenses for:

      (l) Moving the personal property owned by the displaced person, family members, business, farm, or nonprofit organizations.

      (2) Other related moving costs as described in Chapter 12 of this manual.

   b. A residential moving expense payment per schedule established by WSDOT of $200 per eligible room, plus a dislocation allowance of $400.

   c. A business or farm may receive a payment equal to its average annual net income over the last two tax years prior to displacement (but not less than $1,000 nor more than $20,000). A business cannot receive this payment unless:

      (l) It cannot be relocated without a substantial loss of patronage.

      (2) The business does not have more than three other establishments engaged in the same business.

      (3) The business has personal property that must be moved.

4. The occupant of a dwelling may receive a replacement housing payment as follows:

   a. If the displaced person has been the owner-occupant for at least 180 days prior to the date of initiation of negotiations and if the displaced person buys and occupies decent, safe, and sanitary (DSS) housing not later than one year from the later of the date on which final payment is received or the date the displaced person moves from the acquired property, the replacement housing payment may include:

      (l) Purchase price differential as determined by WSDOT standards up to a statutory maximum of $22,500.

      (2) Mortgage Interest Differential Payment (MIDP) expense.

      (3) Title, recording, and certain other closing costs for the replacement housing.

   b. If the displaced person has been the legal occupant for at least 90 days prior to the date of initiation of negotiation and if the displaced person rents and occupies DSS housing not later than one year from the date the displaced person moves from the acquired property, the replacement housing may include:

      (l) Rent supplement as determined by WSDOT standards up to a statutory maximum of $5,250, or

      (2) Down payment to purchase a DSS dwelling; however, the down payment cannot exceed the rent supplement as determined by WSDOT.

5. The payments in 3-4.1.E.3 and 4 are not income for tax purposes, social security eligibility, or welfare eligibility—except that the rent supplement payment may be considered in determining the shelter allowance in the welfare program.

6. If sufficient comparable DSS rentals or sale housing is unavailable, the acquiring agency must provide housing under the provisions of Housing of Last Resort described in Chapter 12.

3-4.2 Washington Administrative Code

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

3-5 County Designations

The counties of the state of Washington have been given both letter and number designations. Current WSDOT practice uses only number designations. Examples of the use of these identifiers are as follows:

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

B. The county number identifying the county is used in the Real Property Inventory as a part of the Inventory Control Number, e.g., 5-39-00001 identifies the first item in South Central's real property inventory for Yakima County.

C. The county number is used in the identification of certain sundry sites, e.g., PS-01-123 identifies a pit site in Adams County. The three numeric digits are a serial number assigned by the department to the site.

3-6 The Property and Acquisition Specialist as a Notary Public

If the Property and Acquisition Specialist's (PAS) duties require the services of a Notary Public, the state will secure the necessary commission and seal. The PAS notifies the supervisor sufficiently in advance of the expiration date to allow the state time to have the seal renewed before it expires.

The jurisdiction of the PAS as a Notary Public extends to all counties of the state of Washington.

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

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

Department of Licensing
Notaries Public Unit
PO Box 9048
Olympia, WA 98507-908

Attention: Professional Licensing – Notary Public

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

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

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

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

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

6-4.2 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 system and/or septic system may be affected by the state's acquisition 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. DV or Administrative Offer Summary (AOS). See Chapter 4 for details.
   4. Salvage Appraisal Report (if applicable).
   5. Appropriate right of way plan sheet(s).
   6. Relocation Assistance booklet (if applicable).
   7. Acquisition booklet. (***Note:*** To be delivered with offer.)

I. The Special Acquisitions Section Manager is notified of any of the following types of parcels which are to be acquired through Headquarters' negotiations.

   1. Land owned by the United States (including property rights held by the Bonneville Power Administration but not including lands of 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 Ferries Division.

6. The following information shall be provided to the Special Acquisitions Section Manager for situations 6-4.2.I.1, 2, and 3 above:

   a. Title report and all supplemental reports.

   b. Identification of needed land or interest.

   c. Negotiator's copy of approved appraisals, DV or AOS.

   d. Any other pertinent information: federal aid number, right of way number, control section, parcel number, negotiation cut-off date, ad date, etc.

   e. Copy of cross sections and construction plan (for railroad acquisitions only).

6-5 Acquisition of Property and/or Property Rights by WSDOT

6-5.1 General

A. WSDOT normally acquires fee title to all lands lying within the right of way of a programmed project.

   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 nonexclusive right to enter upon the property of another. The easement will set forth WSDOT's right to the use of the property under specified circumstances.

6-5.2 Access Rights

A. When only the access rights are to be obtained, the PAS:

   1. If from the fee owner of a parcel proceeds in much the same manner as for a normal acquisition, the PAS obtains a Warranty Deed, Access Rights Only (RES-305), and clears encumbrances (see Chapter 8).

   2. If from the owner of a benefitted parcel (an easement holder), the PAS proceeds to obtain a Quitclaim Deed (Access Use for Easements) (RES-356) and clears the easement (see Chapter 8)

B. When a limited access facility is being built in an entirely new location:

   1. WSDOT's policy is to obtain access rights from the abutters of the new facility even though the abutters did not have the right of access in the before.

2. If the WSDOT acquires a parcel that is encumbered by an easement for access, then the PAS acquires the benefitted owner's access rights (in the usual manner) and clears the easement.

C. When a managed access facility is being converted into a limited access facility, the PAS:

1. Acquires the abutting owner's access rights in the usual manner.

2. Acquires the rights of use from the easement holder (RES-356)

D. Compensation for loss of access is justified only if so indicated by a DV or AOS pursuant to Chapters 4 and 5.

E. If no access restriction is shown on the right of way plans, access cannot be acquired without prior written approval from the Headquarters Real Estate Program Administrator and the Access and Hearings Engineer.

6-5.3 Easements, Temporary Easements, Permits, and Rights of Entry

6-5.3.1 Easement

WSDOT may acquire a permanent easement when it needs a continuing, nonexclusive right to enter upon the property of another. The easement will set forth WSDOT's right to the use of the property under specified circumstances. The following are examples of typical easement situations:

1. An easement for cut or fill slopes, provided that:

   a. The slope can be put to use with the adjoining lands without detriment to the state's project (e.g., grazing land).

   b. The slope may be eliminated in the future by bringing the abutting lands to the same grade as the highway facility.

2. An easement for the construction of and continued access to project protection features (e.g., channel change, drainage).

3. An easement for land needed to replace the functional requirements of an existing easement.

6-5.3.2 Temporary Easement

WSDOT acquires a temporary easement when it needs the temporary right to enter upon the property of another. The temporary easement will set forth WSDOT's right to the use of the property under specified circumstances and/or conditions for a limited time period. The following are typical temporary easement guidelines and situations:

1. The temporary easement is used when the state requires a property right of a temporary nature. 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.

2. The temporary easement will expire by its own terms by inclusion of a statement to the following. "The temporary rights herein granted shall terminate on (*date*)." Caution should be taken to allow ample time for completion of construction and the opening of the highway to traffic.

3. The recording of temporary easements will be based upon the following:

   a. The temporary rights are shown on the R/W plan.
   b. Value is $1,000 or more.
   c. That it has a term of more than six months.
   d. That there is an expiration date.

   Note: All of the above shall be met to be recorded.

6-5.3.3 Permit

A permit is used for temporary rights and should not be used when WSDOT needs a perpetual right. A permit is valid with the current owner only and must be renegotiated if property ownership changes before the permit expires. The following are typical permit guidelines and situations:

1. Permits will be drafted by the Region Real Estate Services Office. They will also fulfill the criteria listed below.

   a. Construction permits will involve relatively minor work that is beneficial and acceptable to the property owner, such as driveway reconnections, slope flattening, and/or contouring.

   b. In most situations, construction permits will be used where no other property rights are to be acquired from the same ownership as a part of the same project.

   c. Permits may also be obtained for preliminary testing on the property, e.g., archaeological, geotechnical, or piezometers, etc.

   d The permit is normally obtained without payment of compensation.

   e. Need not be submitted to or approved by Headquarters Real Estate Services Office.

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 Region RESM determines that the mobile home should be purchased the PAS shall:

a. Provide the owner of the mobile home with a separate mobile home offer letter (RES-349).

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):

   (2) All mobile home information is included in deed, i.e., "together with a 1985 20x78 Saratoga mobile home."

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

   (1) Obtain original title or prepare a Department of Licensing Affidavit of Loss/Release of Interest form. Owner must sign either the original title or the Affidavit of Loss/Release of Interest.

   (2) 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.

   (3) Complete a Bill of Sale form.

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

   (5) 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 Headquarters RESM.

(6) 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.

(7) If the Region RESM submits for escrow:

(a) 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.

(b) Prepare an escrow agreement that includes:

i. The transfer of the mobile home.

ii. Instructions for a UCC search or notes that HQ Title Section has completed a UCC search.

iii. Clearance of any liens disclosed.

(8) If Region RESM decides not to submit to escrow then:

(a) The agent contacts HQ Acquisition and 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.

(b) 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.

(9) Submit all original paperwork with transmittal

(10) After original title is received from the Department of Licensing in the region (approximately six to eight weeks); a copy is transmitted to HQ for inclusion in the acquisition file.

d. The PAS 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 reinstated from the Department of Licensing.

2. If the Region 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.

I. **Condominiums** – Condominiums created prior to July 1, 1990, are organized under Chapter 64.32 RCW and after July 1, 1990, they are organized under Chapter 64.34 RCW. Under both situations the declaration will contain the information on how the acquisition is completed. In the majority of acquisitions WSDOT will be acquiring the common area of the condominium.

1. Obtain copies of the declaration and any amendments and a copy of the survey map and plans.
2. If there are improvements within the acquisition area, then a title report shall be ordered on each unit of the condominium.
3. If no improvements are within the acquisition area, then a Memorandum of Title shall be completed.
4. If there is a section/article in the declaration for acquisitions under eminent domain, then the acquisition will be completed in accordance with this section/article.
5. If there is not a section/article in the declaration regarding eminent domain, then the acquisition shall conform to the appropriate section/article for sale and withdrawal of property from the condominium. ***Note:*** RCW 64.34.348 also governs the conveyance of common elements.
6. An amendment to the declaration and the condominium survey map and plans shall be completed to withdraw the acquisition area from the condominium.

J. **Donations** – Reserved

K. **Functional Replacement of Publicly-Owned Real Property** – Occasionally it is necessary to acquire publicly-owned, special use properties, e.g., a school, fire station. 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. 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.

1. Cases that require functional replacement are identified as early as possible in the location and design stages so that they can be included in the environmental impact studies and addressed following plan development.

2. Functional replacement may be authorized under the following conditions:

   a. The property to be functionally replaced is in public ownership (except that properties owned by railroads and utilities are ineligible).

   b. The functional replacement actually takes place and the costs of replacement are actually incurred.

   c. The replacement site and construction thereon are in compliance with existing codes, laws, and zoning regulations.

   d. Functional replacement costs include:

      (1) The actual cost of providing a replacement facility having the same functional capabilities.

      (2) Either of the following:

         (a) 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.

         (b) The reasonable cost of acquiring a functionally equivalent substitute site where lands in the same public ownership are not available or suitable.

      (3) Costs chargeable to increases in capacity and other betterments are not eligible, except:

         (a) Those necessary to replace utilities.

         (b) Those required by existing codes, laws, and zoning regulations.

         (c) Those related to reasonable prevailing standards for the type of facility being replaced.

      (4) If the appraised market value of the property to be acquired exceeds the cost of functional replacement, the market value may be paid.

3. 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. Undeveloped lands that are being held for future park use normally would not be eligible.

4. 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:

   a. The VFD's facilities are devoted strictly to public use and are serving a public need that would otherwise have to be provided if the subject facility did not exist.

   b. The VFD's facilities are physically unique. Facilities do not qualify if they are of a type that is found in the normal market.

   c. 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.

   d. 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.

5. The Region RESM:

   a. In the advance planning, design, or access and right of way phase, identifies real properties that are in public ownership and may qualify for functional replacement.

   b. Subject to appropriate authority from the Regional 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:

      (1) Establishes a parcel file for the case by taking the actions specified herein and assures that it includes a Diary of Right of Way Activities – Acquisition and a Functional Replacement Checklist.

      (2) Offers to have property valuation made on both market value and functional replacement bases.

(3) Allows owning agency to select valuation method(s).

Note: A market value appraisal and DV are made in every case except when the owning agency specifically waives its right to have its property appraised.

c. Reports the results of discussions and decisions concerning functional replacement to the Regional Administrator for inclusion in environmental impact statements, etc., if required on a project.

d. 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.

e. If the owning agency has indicated that it elects functional replacement, verifies that the owning agency has submitted a letter (addressed to the Regional 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.

f. Submits to the Headquarters RESM:

(1) Cost estimate data showing comparative costs.

(2) A memorandum covering:

(a) Tentative agreements reached with the owning agency.

(b) Justification for functional replacement.

(c) Assurance that all replacement property will be acquired in compliance with all state and federal regulations concerning acquisition and relocation assistance.

(3) The owning agency's letter requesting functional replacement.

(4) Any other pertinent data.

6. The Headquarters RESM:

a. Reviews the submittal from the Region RESM.

b. If federal funds are to participate, prepares and transmits a letter (to be signed by the Director for Environmental and Engineering Programs) to FHWA, Division Administrator, including:

(1) A request for FHWA concurrence in functional replacement.

(2) 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.

(3) Appropriate additional data received from region.

c. Upon verification from FHWA that functional replacement is in the best interest of the state, notifies the Regional 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.

7. The Region RESM:

a. Obtains execution by the appropriate officials of the owning agency of a formal agreement which sets forth:

(1) The rights, obligations, and duties of each party with regard to the facility being acquired and the acquisition of the replacement site specifying how the agencies name is to appear on acquisition.

(2) How the costs of the new facility are to be shared between the parties.

b. Proceeds with the acquisition of the substitute site, if appropriate, in the name of the party specified in the agreement.

c. Submits proposed PS&E for the functional replacement to the Headquarters RESM, if required.

d. Submits the agreement to the Headquarters RESM for execution.

8. The Headquarters RESM:

a. Reviews the agreement and executes it for the state of Washington.

b. If federal funds are to participate, submits the executed agreement to FHWA together with a letter requesting FHWA concurrence.

c. Notifies the Region RESM upon receipt of FHWA concurrence.

9. Upon completion of construction, the Region RESM:

   a. Makes a joint final inspection of the replacement facility with the appropriate representatives of the owning agency.

   b. Verifies that the conveyance from the agency to the state of the lands required for highway purposes has been accepted by the state.

   c. If appropriate, submits voucher for any costs, e.g., relocation assistance, due to the agency pursuant to the agreement.

   d. Obtains a statement from the appropriate officials of the owning agency that:

      (1) The costs of the replacement facility have actually been incurred in accordance with the provisions of the executed agreement.

      (2) A final inspection of the replacement facility has been made by both parties.

      (3) The Department of Transportation is released from any further responsibilities.

6-8 Property and Acquisition Specialist's Actions Prior to Contact With the Owner

The PAS:

A. Adds to the parcel file the Diary of Right of Way Activities – Acquisition Form.

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, and obtains any supplemental title reports which may be necessary.

C. Studies the appraisal report and the Review Appraiser's DV or AOS, taking special note if there are any tenant-owned improvements identified or improvements to be salvaged. ***Note:*** Salvage items should be identified during the appraisal inspections and any salvage values should be included in the appraisal report.

D. Studies and investigates all details of the right of way plans, utility plans, drainage plans, channelization plans, as well as the profiles, cross sections, road approach schedules, and any other specialist's reports 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 such as improvements (fences, buildings, business signs, etc), utilities (including drop lines continuing service to buildings), and evidence of septic drain fields that 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 form RES-350. Each letter is individually prepared on region letterhead. ***Note:*** **If the offer is administrative, the offer letter must state the property has not been appraised but will be if requested.**

I. Whenever possible, prepares the instruments and vouchers necessary to complete the transaction (see Chapters 9 and 13).

6-9 Relocation Assistance Program

If an acquisition requires the moving of persons or personal property from the parcel, the PAS completes a Relocation Eligibility Report (Form RES-524). Upon obtaining proper signatures on the Relocation Eligibility Report, immediately forwards the original to the Relocation Assistance Section Manager.

If requested, the PAS can deliver a Relocation Assistance Program booklet and a General Notice of Relocation Rights (see Chapter 13 for example) to the property owner.

The PAS should only try to 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 better 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 PAS should forward a copy of the letter withdrawing the offer to the relocation department.

More complete information and instructions are found in Chapter 12 of this manual.

6-10 Property and Acquisition Specialist's Contact With the Owner

6-10.1 In-State Owner

The PAS:

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.

E. Provide the Appraisal/AOS to the owner as follows:

   1. Deliver the bound copy of the appraisal (but *not* a copy of the DV).

      a. If the DV is different from the appraised amount, the PAS will deliver the Reviewer's deviation memo to the property owner as justification for the difference.

      b. Instruct the property owner to direct questions about the appraisal only to the PAS as the representative of WSDOT.

   2. The PAS will present a copy of the approved AOS including the appropriate market data sheets to the property owner upon making the offer.

F. 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.

G. If there are no persons or personal property displaced by the state's acquisition, the agent so states in the diary.

H. Provides the owner with the *Transportation Property Needs and You* booklet.

I. Provides the owner with an original and one copy of all instruments necessary for the transaction.

J. Provides the owner with the original and one copy of the Real Property Voucher(s) (RES-321)

K. Provide the property owner(s) with a substitute Form W-9 to complete in accordance with the procedures set forth in Chapter 10.

L. Provide the property owner(s) with a Statewide Vendor Registration and Payment Options form (SWV Form) to complete in accordance with the procedures set forth in Chapter 10.

M. If there are persons or personal property to be displaced, follows instructions herein or have the relocation specialist present to explain the relocation program and entitlements.

N. Obtains information from the owner regarding tenants on the parcel to be acquired by requesting the owner complete the Landlord/Tenant Form (RES-352) for each tenant on the total premises.

O. Obtains copies, if applicable:

1. Articles of Incorporation & Bylaws and any amendments.
2. Limited Liability Company Operating Agreement and any amendments.
3. Partnership Agreement and any amendments.
4. Trust Agreement and any amendments.

6-10.2 Alternate Contact (Offer) by Mail With In-State Owner or Out-of-State Owner

The Region RESM may designate projects in which the first contact (offer) with property owners may be accomplished by mail. In these instances, the PAS:

A. Contacts all parties having an ownership in property rights required (land, encumbrances, and improvements) as shown on the title report or in the appraisal.

B. Verifies that the person(s) to whom the offer is to be made is the parcel owner, contract buyer, or a specialist for same who is authorized to convey the subject parcel.

C. Sends to the owner by certified mail, with return receipt requested:

1. A written explanation of the purpose of the project, what property rights will be required, and why.

2. The original and one copy of the offer letter (RES-350), with the copy marked requesting signature and return.
3. Provide the appraisal/AOS to the owner as follows:
   a. The negotiator will send the bound copy of the appraisal (but *not* a copy of the DV).
      (1) If the DV is different from the appraised amount, the Negotiator will send the memo to the property owner as justification for the difference.
      (2) The negotiator will instruct the property owner to direct questions about the appraisal only to the Negotiator as the representative of WSDOT.
   b. The negotiator will send a copy of the approved AOS including the appropriate market data sheets to the property owner.
4. A copy of the right of way plan marked to definitely show the area to be acquired and any remainder(s).
5. *Transportation Property Needs and You* booklet.
6. Relocation Assistance Program booklet, if appropriate.
7. Such additional relocation assistance material as may be deemed necessary upon consultation with the Region Relocation Assistance Supervisor.
8. Original and one copy of all instruments necessary for the transaction.
9. Real Property Voucher(s) (RES-321).
10. Send the property owner(s) a substitute Form W-9 to complete in accordance with procedures set forth in Chapter 10.
11. Send the property owner(s) a Statewide Vendor Registration and Payment Options form (SWV Form) to complete in accordance with procedures set forth in Chapter 10.
12. Special instruction on what to sign, where to sign, how to sign requirements for acknowledgments, and instructions for return mailing.
13. Self-addressed, stamped envelope.

D. Upon return of the certified mail receipt, telephones the owners to discuss the state's offer and to obtain the owner's reaction.

E. 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 (RES-353) as specified in Section 6-8.

F. 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.

G. If the owners do not respond within two weeks to the "follow-up" letter, sends by certified mail (return receipt requested) an urgent letter or delivers in person.

H. If the owners reject the state's offer or do not respond within two weeks to the "urgent" letter, prepares the final action notice per RCW 8.25.290.

6-10.3 Post-Meeting Responsibilities

6-10.3.1 Diary of Right of Way Activities – Acquisition (RES-301)

The PAS makes detailed entries in the Diary of Right of Way Activities – Acquisition (RES-301) 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 must be 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 PAS's responses.
4. Any concerns or issues noted.
5. The explanation of the statutory evaluation allowance.
6. The explanation of the Relocation Assistance Program or that they will be contacted by a Relocation Specialist.
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, the acquisition booklet, or a statement that the letter and booklets were delivered but that the owner refused to sign the receipts.

H. The details of any negotiated/administrative settlement that is reached.

I. The details of any revised offers.

J. The details of any issues that may result in the withdrawal of the offer.

K. If condemnation is to be filed per RCW 8.25.290, the following details shall be included in the diary:

1. Dates notice published in the local paper or papers.
2. Date notice mailed to "taxpayer" by certified mail.
3. Date and attendance at final action meeting.

L. Date negotiator's report completed (RES-320).

6-10.3.2 Continued Negotiation

The PAS:

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 Determination of Value (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 (RES-351), in which the occupancy date remains unchanged. 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 PAS prepares the Right of Way Acquisition Transmittal (RES-353) and its accompanying data package.

2. A settlement cannot be reached. In this case, the PAS prepares the final action notice per RCW 8.25.290.

6-10.4 Owner Represented by Others

6-10.4.1 General

A. The property owner (or any other party of interest) may choose to be represented by another party. Certain individuals (e.g., minors, or incompetents) 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 (without legal authority).

6-10.4.2 Rules

A. At the owner's written request, the state conducts acquisition activities with the interested party's representative.

B. The state accepts conveyances from the owner's duly authorized attorney-in-fact as provided in a recorded durable or special power of attorney that has not been revoked or superseded and the principal is alive.

6-10.4.3 Procedures

6-10.4.3.1 Attorney at Law

A. If the property owner (or any other interested party) is represented by an attorney, the PAS deals only with that attorney. The PAS requests that the property owner 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 PAS requests that the owner furnish a letter of notification. When received, such letter is placed in the parcel file.

C. In either case, the circumstances should be noted in the diary and the written confirmation or letter is referenced.

6-10.4.3.2 Attorney in Fact

A. When dealing with an owner's attorney in fact, the PAS may accept conveyance from either the individual (the principal) or from the attorney in fact, provided (in the latter case) that the PAS:

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 Chapter 9), thereby obtaining the attorney in fact's sworn statement that the principal is alive.
4. Includes a copy of the power of attorney, showing recording data in the transaction package when forwarded for processing.

6-11 Remainders

The following sections cover acquisitions involving two categories of remainders: "uneconomic remnants" and "excess acquisition."

6-11.1 Uneconomic Remnants

A. If the DV includes a statement by the reviewer that a remainder is an uneconomic remnant, the department shall offer to purchase such remnant at its determined value by selecting "Clause A" for the offer letter (see RES-350). 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 PAS files the Negotiator's Report (RES-320), the uneconomic remnant is normally not included in the condemnation action except by agreement between the Assistant Attorney General (AAG) and the property owner.

6-11.2 Excess Acquisition

6-11.2.1 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 6-11.2.1.B and the owner is adamant in his refusal to keep the remainder, then the PAS may acquire the excess using the following procedures:

6-11.2.2 Procedures

A. If the "after value" of the remainder, as shown on the DV, up to and including $10,000, the PAS prepares form RES-336 requesting the approval of the Region RESM. Upon receipt of the approved memo, the PAS 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 PAS also includes a signature line for the approval of the Regional Administrator.

C. The PAS 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 PAS files the Negotiator's Report (RES-320) the Negotiator's Report specifies only the required right of way.

6-12 Administrative Settlement

6-12.1 General

If it is impossible to reach an agreement to purchase based upon just compensation, WSDOT may attempt acquisition by means of an administrative settlement.

6-12.2 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 (RES-214) or Administrative Offer Summary (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 acquisitions on the project.

B. In each case, the effect of an administrative settlement upon the entitlement amount under the Relocation Assistance Program is considered.

C. Each administrative settlement must consider the following:

   1. Condemnation process (updating for trial, pretrial, conferences, attorney's expenses, witness fees, etc.).

2. Trial risk (based on experience in the particular county).
3. Other parcel specific issues.

   Note: Specific information about the parcel, including copies of appraisals, estimates, bids, research information, etc., **must** carry the most weight in the justification.

6-12.2.1 Authority

The authority to approve administrative settlements on parcels being acquired by the department 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.

   Adequate justification is providing sufficient information or documentation to "tell the story" so that another person or party not familiar with the parcel can ascertain if the decision is supportable.

   a. A diary entry signed by the approving authority or authorities is sufficient documentation when the administrative settlement amount is $50,000 or less.
   b. A memorandum to the file, signed by the appropriate authority or authorities, must be provided to support administrative settlements that exceed $50,000.

   The diary or memorandum explains the rationale for the administrative 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.

6-12.3 Procedures

6-12.3.1 Region Actions

A. The PAS:

   1. Makes every sincere effort to negotiate a purchase for the just compensation as listed in the DV or AOS. This must at least meet the minimum negotiation requirements contained herein.
   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 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 any owner's appraisal. **Note that where an administrative settlement is made for cost-to-cure items (that were not addressed in the original AOS) that would put the parcel over the $25,000 threshold for appraisal waiver, an appraisal is required.**

   g. Trial risks

2. May instruct the PAS either:

   a. Negotiate a settlement.

   b. Submit the parcel for condemnation.

3. If the administrative settlement is to be for an amount greater than that authorized to the Region RESM by this section, prepares the memorandum, attaches copies of any estimates or bids and transmits it to the Regional Administrator or delegate for approval.

4. Upon receipt of the approved administrative settlement memo, transmits it to the PAS 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 PAS to submit a Negotiator's Report for Condemnation.

C. The Acquisition Specialist:

1. 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. Included in the diary is reference to any estimates and bids in the file.

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 Specialist.

   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

d. If the owners refuse the administrative settlement, prepares the Negotiator's Report and its accompanying data package as described in Sections 6-24 or 6-25.

2. If instructed to condemn, proceeds as described in Sections 6-24 or 6-25.

6-12.4 Sample Administrative Settlement Format

Amount of Approved AOS or DV: $
Amount of Proposed Administrative Settlement: $
Amount of Proposed Total Settlement: $

1. Condemnation will take additional time and money, i.e., updating for trial, pretrial, conference, staking of right of way, attorney's expenses, and witness fees (appraisers, consultants, etc.).

2. Describe the trial risks based on experience in the particular county.

3. Describe other parcel specific issues:

   a. Brief summary of the basis of the owner's refusal of the state's offer.

   b. Counteroffers and negotiations relative thereto.

   c. Detailed explanation of the justification for the administrative settlement including the following:

      i. WSDOT's review of the owner's appraisal or counteroffer.

      ii. Evaluation of value differences.

      iii. Evaluation of cost-to-cure items including copies of estimates or bids.

iv. Other impacts to construction such as fish windows, channel change, or irrigation canal relocation.

	WSDOT Appraisal	Proposed Settlement	Difference
XXX S.F. of Land in Fee	$9,600 ($2.15 sf)	$15,600 ($3.50 sf)	$6,000
Fencing	$2,800	$3,600	$800
Sign Relocation	$6,000	$8,550	$2,550
Proximity Damages	$0.00	$5,900	$5,900
Total	$18,400	$33,650	$15,250

Signature of (Approving Authority)
Reminder: Attach copies of any bids or estimates to the memorandum.

6-12.5 Web Based Training Link for Administrative Settlements – Reserved

6-13 Payment of Rent Prior to the Acquisition of the Property

6-13.1 General

If a current tenant vacates property or the property is already vacant before the department acquires possession, then it may be appropriate for the department to pay rent to prevent the property from being rented to another tenant, resulting in another displacement or in a property owner claiming loss of rent.

6-13.2 Rules

A. The payment of rent is to be utilized at the discretion of the Region RESM based on the following criteria:

1. Terms and rental rate for the current leasehold interest held by the displaced person.
2. Lead-time for business and tenants to find and secure replacement sites.
3. Availability of replacement sites suitable to the displaced person.
4. Potential of the owner to rent the subject site.
5. Facilitate negotiations and goodwill with the property owner.
6. The acquisition schedule (ad date).

B. The Region RESM must analyze the cost effectiveness of paying 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 per month on a 10 foot by 10 foot storage unit and the proposed rent period is 6 months, then it would not be cost effective to enter into a rental agreement because the personal property benefit is only $300 (for 10 foot by 10 foot unit).

C. The Region RESM concludes that the rent is justified or not justified and instructs the Region Acquisition Supervisor and Region Relocation Supervisor.

D. If the property is occupied by a tenant then the PAS and the relocation agent coordinate to establish timelines regarding the vacation of the property by the displaced person(s) and the date to commence protective rent. Upon vacation of the premises by the current tenant, the PAS will obtain verification that the existing lease has been terminated and that all deposits have been returned to the tenant.

6-13.3 Procedures

The following options for rent, prior to the acquisition, require that the region 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:

A. An Agreement Not to Rent (RES-343) may be completed and signed by the owner and the Region RESM.

B. The PAS requests that the owner (landlord) provide WSDOT with a lease/rental agreement.

   1. The PAS will submit the lease/rental agreement to the Region RESM for review and approval. The Region RESM will consult with the Acquisition and Title Section Manager regarding complex issues or non standard language (such as hold harmless, indemnity, etc.).

   2. If the owner (landlord) does not provide a lease/rental agreement, then the appropriate WSDOT acquisition lease will be utilized.

C. The PAS prepares the right of way acquisition transmittal package.

6-13.4 Payment Options

The following are suggested methods of payment available for either option 6-13.3.A or B above:

A. **Agreement** – The region executes three original instruments and establishes a 0P Agreement following procedures outlined in the *Agreements Manual* M 22-99.

B. **Real Property Vouchers** – The region executes Real Property Vouchers to make monthly, quarterly, or yearly payments based on the terms of the agreement.

C. **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 the administrative settlement procedures as shown in this chapter and is paid in the primary real property voucher upon final settlement with the property owner.

   Note: Payment of rent should continue until the department has obtained possession of the property (e.g., by deed or possession and use).

6-14 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 when 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 that 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 PAS:

   1. Shows the amount of special benefits charged (as shown on the DV) in the Offer Letter (RES-350) by adding the appropriate clause.

2. Selects Clause "B" on the Offer Letter and attaches a copy of RCW 8.25.210 through RCW 8.25.260 to the owner's copy of the Offer Letter.

3. Modifies the owner's receipt for the Offer Letter to include receipt of a copy of the statutes.

4. Gives the owner adequate time to consult with counsel.

6-15 Toxic/Hazardous Waste Situations

Initial site assessments and preliminary site investigations should have already been conducted before the PAS is assigned the property. Chapter 4 contains information on the indications of a contaminated site.

A. When the appraisal indicates the possibility of the property being contaminated, the PAS will consult with the Environmental Service Office (ESO), the Region RES Manager, and the Acquisition and Title Section Manager for the appropriate method of mitigating the risk to WSDOT. Items F and G below provide direction.

B. When a potential hazardous waste or contamination situation is observed or indicated to the PAS, will complete a hazardous waste checklist and submit it to the Region RES Manager.

C. The Region RES 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. 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 cleanup procedures can be used. These will be unique to each parcel and the following list is not meant to be the only methods available. Each method should be discussed with the Region RES Manager and Acquisition and Title Section Manager to assure proper risk assessment and avoidance is applied.

   1. The property will be purchased as if clean and the PAS withholds the cleanup costs from the compensation. The risk is the estimate may over or understate the cleanup costs. Depending on the confidence of the ESO in the estimate and the potential for additional contamination, an 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 cleanup 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 cleanup. 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 cleanup 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 cleanup costs.

G. ESO and RES will need to work together to assure the appropriate measures are used in the cleanup of the property. ESO will process all Department of Ecology filings.

6-16 Property Rights Acquired and Occupancy by WSDOT

6-16.1 General

A. **Definitions**

1. **Property Acquired (Ownership)** – WSDOT acquires ownership of property and/or property rights on the "payment available date" (when owner has received and has the opportunity to deposit the payment or when funds are disbursed through escrow).

2. **Early Occupancy** – The right to use and occupy the property subsequent to settlement agreement and prior to ownership.

B. When lands are occupied by persons, personal property, business, or farm operations, WSDOT cannot acquire occupancy without providing the owners and tenants with a written assurance at least 90 days prior to the earliest date by which they could be required to vacate the property as specified in Chapter 12.

6-16.2 Rules

A. Any occupancy by the original owner or tenant after the state acquires ownership requires payment of rent to WSDOT and execution of a lease. Any deviation from the requirement shall be approved in writing by the Property Management Section Manager. (See Chapter 11.)

B. Rental to the original displaced owner or tenant beyond the initial displacee lease period is allowed only with prior written approval by the Headquarters RESM.

C. Rental rates to the original displaced owner or tenant may not exceed fair market rent.

D. Either a copy of the displacee lease or a statement shall be included in the Diary that the lease is being obtained by the region prior to transmittal of the acquisition documents to HQ.

E. In the case of tenant occupied properties, the acquisition specialist verifies that all damage deposits and prepaid rents have been addressed. If an amount is disputed between the owner and tenant WSDOT shall withhold the disputed amount as a performance bond until the dispute is resolved.

6-16.3 Procedures

If the property is occupied, the PAS:

A. Reviews the appraisal for determination of rent and coordinates with the Region Property Management Specialist to determine the amount of rent and any leasehold excise tax which will be required after the state acquires ownership (see Chapter 11).

B. For Owner Occupied Property:

1. States that the owner 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.

Note: The Region RESM will assign an agent for delivery and execution of the displacee lease in accordance with the procedures set forth in Chapter 11.

2. States that WSDOT is required by law to advise any owner of their rights and entitlements under the Uniform Relocation Assistance Act.

3. 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).

4. Obtains execution of the instrument(s), and, if required, the Fixtures and Improvements Agreement.

C. For tenant occupied property:

1. States to the owner that it is WSDOT's policy to discourage tenants from vacating the subject prior to the sale to the state.

2. States to the owner and the tenant that the owner's right to collect the rents from the tenant 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

3. Provides the Landlord/Tenant Form (RES-352) previously filled out by the owner for review and obtains acceptance of the statements by requesting the tenant's signature on the form. If tenant disputes the information then the agent requests a meeting between the tenant and the owner.

4. If there is tenant owned real property, a Quitclaim Deed shall be executed.

5. If no tenant owned real property, then either Partial Release of Lease (RES-312) shall be executed by the tenant and concurred to by the owner or a Release of Lease (RES-313) shall be executed by the tenant, as applicable.

6. States that the tenant will be required to sign a lease with WSDOT and surrender occupancy in accordance with the terms of the lease once WSDOT acquires ownership of the property. The lease cannot terminate prior to the displaced occupant being provided with their Notice of Relocation Eligibility, Entitlement, and 90-Day Assurance Letter.

Note: The Region RESM will assign an agent to coordinate 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.

7. States that WSDOT is required by law to advise any tenant of their rights and entitlements under the Uniform Relocation Assistance Act.

6-17 Miscellaneous

6-17.1 Expenses Incidental to Selling to the State

6-17.1.1 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 PAS uses the following guidelines and procedures in making the claim for the statutory evaluation allowance:

A. In making the offer to the owners, the PAS 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 PAS 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).

6-17.1.2 Allowance for Other Expenses

Certain "incidental expenses" incurred in transferring property to the state are payable by the department.

A. **Payable Expenses**

1. **Real Estate Excise Tax** – If the property is not acquired under eminent domain, i.e., early acquisition, advanced acquisition and remainders, then the department shall pay the real estate excise tax. If property acquired under eminent domain, then the department shall pay the administrative fees due.

2. **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.

3. **Prepayment Penalties** – Loan prepayment penalties charged by a mortgagee.

   Note: There are no prepayment penalties in the case of FHA insured loans.

4. Reconveyance Fee. A trustee is entitled to a fee for execution of a reconveyance (see Chapter 8).

5. 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 PAS:

1. Obtains the amount of Real Estate Excise Tax due from the Department of Revenue's website (www.dor.wa.gov).

2. Obtains a bill or letter from the charging agency, person, or company for any fee and/or prepayment penalties.

3. Questions the lender and verifies the necessity for a processing charge or prepayment penalty. The Region RESM shall approve and document any processing charges or prepayment penalties.

4. Includes the payable expenses (6-17.1.2.A) in the appropriate section of the Real Property Voucher (RES-321). 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.

6-18 Trades and Exchanges

6-18.1 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.

6-18.2 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" 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 a completed Exchange Agreement (RES-322).

C. In all trades or exchanges involving the payment of money by the state, a Real Property Voucher (RES-321) 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) (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.

6-18.3 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 PAS:

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. In coordination with Property Management, has the Exchange Agreement prepared for execution by the grantor.
5. Prepares the Right of Way Acquisition Transmittal with care to include the Exchange Agreement as specified in this section, and the Surplus Property Report.

6-19 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 (RES-344) approved by the project engineer and the property owner. When necessary to enter upon lands not acquired to perform an obligation, a further clause granting a right of entry to the state for that purpose is also required (RES-381). The original memo is sent to the project engineer and a copy is included in the transmittal package.

6-20 Road Approaches

A. Road approaches on nonlimited access facilities are governed by Chapter 47.50 RCW. Specific formulas for establishing road approaches have been determined. All new or altered road approaches must be documented by access connection permit. For alteration of an existing access point, contact the region's access personnel.

B. Road approaches on limited access facilities are governed by Chapter 47.52 RCW. Specific clauses for inclusion on documents are in Chapter 9.

6-21 Salvage of Improvements

A. If improvements are being acquired as a part of the state's acquisition, the PAS, prior to contacting the owners:

1. Prepares a Fixtures and Improvements Agreement (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 RESM 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 desire to salvage any or all improvements and it will not adversely impact construction, the PAS 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.

6-22 Acquisition Transmittal

After acquiring or clearing all interests in a parcel, the PAS 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 PAS refers the parcel for condemnation using the procedures of Sections 6-24 or 6-25.

6-22.1 Special Handling

6-22.1.1 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" (RES-354) is attached to the face of the Right of Way Parcel Transmittal.

6-22.1.2 Rules

Transactions are given "special handling" only in emergencies such as, a threat of irreparable damage to the grantor in terms of monetary loss or burden, extreme hardship, an urgent public relations problem where the state is correcting its own error, tax payment, or an ad date in jeopardy.

6-22.1.3 Procedures

6-22.1.3.1 "Hardship" Acquisition

All "hardship" acquisitions have already been authorized for special handling. Therefore, the PAS 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."

6-22.1.3.2 Memo: Special Handling

A. In compliance with this section, the PAS prepares a memo requesting that the transaction be given special handling

B. The Region RESM reviews the memo, and if approved, signs the memo in the space provided.

C. The PAS attaches the "Memo: Special Handling" to the face of the Right of Way Parcel Transmittal.

6-23 Right of Way Parcel Transmittal

Having successfully negotiated a transaction, the PAS prepares the Right of Way Parcel Transmittal (RES-353), as follows:

A. **Identification and Headings**

1. Enters right of way project number, state route, right of way plan title, federal aid number, control section number, and right of way number.
2. **Grantors** – Inserts the grantor's name.
3. **Inventory Control Number** – If available inserts the number in the transmittal.
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. **Preacquisition, Negotiated Possession and Use, Final Settlement, or Post Acquisition Transmittals** – Places an "X" or shades in the appropriate box and inserts the date 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 WSDOT parcel number.

C. **PAS's Summary**

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. **Remarks** – Enters any pertinent explanations, information, etc., including, if appropriate, the fact that the parcel had been previously turned in for condemnation.

6-23.1 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. Acquisition and Title Contents Form*.

B. Fully executed document(s).

C. Proof of payment.

D. TRAINS Property Voucher(s).

E. Executed Real Property Voucher(s).

F. Do not include executed substitute Form W-9. ***Note:*** Once submitted to accounting, no copies should remain in file.

G. Do not include completed Statewide Vendor Registration and Payment Options form (SWV). ***Note:*** Once submitted to accounting, no copies should remain in file.

H.. Administrative Settlement – Attaches letter justifying any administrative settlement or makes appropriate diary entry.

I. Diary of Right of Way Activities (RES-301) – Assures that the diary is complete and that the certificate is signed and dated.

J. Escrow Agreement (RES-337) – Completely filled out and signed.

K. Escrow Statements (HUD)*.

L. Offer Letter and Revisions – Assures that the delivery data is completed on all.

M. Title Policy – Reviewed and approved by Region*.

N. Closing Order (do not use for escrow)*.

O. Excise Tax Affidavit(s)*.

P. Title Report – Assures that the title report and all supplemental reports are included, together with copies of all exception and vesting documents, and are not older than six months.

Q. Entity documentation include necessary resolutions, corporate papers, partnership agreements, trust agreements, LLC operating agreements, etc.

R. Request to Accept Encumbrance form (RES-333).

S. 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).

T. 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.

U. Memo: Construction Item – Include a copy of memo (Construction IOC) signed by the Regional Administrator or designee and the property owner authorizing a special construction item.

V. Memo: Special Handling – Attaches the memo to the face of the acquisition transmittal form.

W. Affidavits/Comments – Includes any necessary affidavits or documents.

X. 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. Correspondence should be in reverse chronological order.

Y. Copy of Displacee Lease.

Z. Copy of the Relocation Eligibility Report (RES-524) and the appropriate Relocation Eligibility forms per Chapter 12.

AA. Exchange Agreement (RES-322)

BB. Salvage Appraisal Report (DOT Form 263-003) – Accounts for salvage values, if applicable.

CC. Fixtures and Improvements Agreement (RES-335) – Itemizes all fixtures and improvements acquired, if applicable.

DD. Determination of Value (RES-214).

EE. Appraisal(s).

FF. Administrative Offer Summary (RES-216).

GG. Copy of Right of Way Plan Sheet(s).

Note: *All items notated with an * are included after processing and payment.*

6-23.2 Region Processing

Region processing includes the following functions: title, property management, relocation assistance, appraisal, and accounting. The transmitting PAS should not be responsible for any part of the region review of the transmittal, but makes certain all appropriate entries are made in computer.

The Region RESM or designee makes a detailed review of the entire data package, to assure that WSDOT will acquire an insurable title in the interest required. The primary focus of 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. The emphasis shall be on identification of correct parties, signatures, notaries, and legal descriptions.

B. **Clearance of Title** – The emphasis shall be on compliance with the requirements set forth in Chapter 8 and documentation of risk analysis by the Region RESM.

C. **Administrative Settlements** – The emphasis shall be on compliance with the current WSDOT policy, documentation, and justification.

D. **Vouchers** – Reviews all real property vouchers to assure that they have been prepared and executed in accordance with Chapter 10.

E. All necessary property management forms have been completed, i.e., Fixtures and Improvement Agreement and Displacee Lease (if applicable), as noted in Chapter 11.

F. All relocation requirements per Chapter 12 have been met.

G. Upon completion of review, the Region RESM:

   1. Signs and dates the conveyance instruments for acceptance and approval by WSDOT.

2. Signs and dates the appropriate vouchers as approving authority.

   Note: The authority to execute documents for the various transactions required for acquisition of Real Property has been delegated by Executive Order E 1012.01, *Delegation of Authority to Approve Certain Department Documents*, memorandum dated August 20, 2008 and as further subdelegated.

3. Transmits construction memo(s) to the appropriate project engineer.

4. In non-escrow cases:

   a. Transmits closing orders and instruments to title insurance company (that prepared the title report) for recording.

   b. Order funds by one of the following methods:

      (i) Electronic Fund Transfers (EFT) – New option for vendors. If EFT is selected, all banking information must be filled out. This option could take up to ten or more days for first time payments after W-9, SWV form, and Voucher is submitted for payment processing. Subsequent payments will be processed in the normal three to four day timeframe. According to accounting, this is the most cost effective method of providing payment. **Acquisition documents must be recorded prior to requesting payment.**

      (ii) Inserted Warrants From AFRS – Payment is processed and mailed directly to the vendor from OFM. The warrant does not come back to WSDOT. This payment option provides warrants three to four days from the date of processing. **Acquisition documents must be recorded prior to requesting payment.**

      (iii) Standard Warrant Return – This option may take a few days longer as the warrants will be returned to WSDOT and not directly processed and mailed from AFRS to the vendor. RES payments are typically sent to property owners/vendors by certified mailed, hand delivered, or mailed with back up documentation/instructions to vendors.

   c. If methods b(i) or b(ii) are used, then upon receipt of notice of recording from the title insurance company a payment letter may be sent to the appropriate parties using RES-360 for b(i) or RES-361 for b(ii).

   d. If method b(iii) is used, then upon receipt of notice of recording from the title insurance company prepares and sends payment letter using RES-362 and warrant by certified mail to the appropriate parties.

e. Enters appropriate dates and recording numbers into computer database.

5. In escrow cases:

a. Order funds by one of the following methods:

(i) Electronic Fund Transfers (EFT) – New option for vendors. If EFT is selected, all banking information must be filled out. This option could take up to ten or more days for first time payments after W-9, SWV form, and Voucher is submitted for payment processing. Subsequent payments will be processed in the normal three to four day timeframe. According to accounting this is the most cost effective method of providing payment.

(ii) Inserted Warrants From AFRS – Payment is processed and mailed directly to the vendor from OFM. The warrant does not come back to WSDOT. This payment option provides warrants three to four days from the date of processing.

(iii) Standard Warrant Return – This option may take a few days longer as the warrants will be returned to WSDOT and not directly processed and mailed from AFRS to the vendor.

b. If methods a(i) or a(ii) is selected, then immediately upon ordering funds transmits to the escrow company the following:

(i) Appropriate cover letter (RES-357 or RES-358).

(ii) Escrow agreement (RES-337).

(iii) Documents.

(iv) Excise tax affidavit.

c. Upon receipt of warrant(s), mails by certified mail, or hand delivers obtaining written proof of delivery, the following to the escrow company:

(i) Cover letter (RES-359).

(ii) Warrant.

(iii) Escrow agreement Form (RES-337).

(iv) Documents.

(v) Excise tax affidavit.

d. Executes all necessary closing statements (HUD forms, etc.) with the escrow company and authorizes recording of the transaction.

e. After recording, notifies property management section of recording numbers and date funds disbursed.

f. Enters appropriate dates and recording numbers into computer database.

6. Upon verification of recording and payment, completes the Acquisition and Title File Contents form (RES-347) and transmits the completed original acquisition file (and title policy if received) in the order specified in Section 6-23.1 to the Acquisition and Title Section Manager in Headquarters for compliance review and records retention.

7. Upon receipt of title insurance policy, the policy is reviewed to make sure that it complies with the closing order or escrow instructions.

   a. If approved, the title policy is sent to the Acquisition and Title Section Manager to be added to the original acquisition file.

   b. If not approved, coordinates with the title company for corrections. When corrected policy is received, forwards to the Acquisition and Title Section Manager to be added to the original acquisition file.

6-23.3 Headquarters Processing

A. All acquisition files when received are date-stamped and then submitted to the Acquisition and Title Section Manager or designee who:

1. Assures that compliance is completed on a minimum of 25 percent of a project's acquisition files. This is a minimum and a greater percentage is at the discretion of Headquarters. All early acquisitions, protective buying acquisitions, hardship acquisitions, corridor preservation acquisitions as defined in Section 6-3 shall be reviewed for compliance.

   a. The primary area of focus will be on conveyance documents. The emphasis will be on identification of correct parties, signatures, notaries, and legal descriptions.

   b. The second area of focus will be on clearance of title and documentation of risk. The emphasis will be on compliance with Chapter 8 and documentation of risk analysis.

   c. The third area of focus will be on administrative settlement justification. The emphasis will be on compliance with current WSDOT policy, documentation, and justification.

2. Posts all acquisition documents on the appropriate official Real Estate Services ownership maps.

   a. If an instrument does not agree with the approved plan, the Headquarters Acquisition and Title Reviewer notifies the Region RESM that the instrument the instrument should be corrected to agree with the current approved plan.

   b. If the parcel had been previously submitted for condemnation action, prepares and delivers to the AG's Office, Memo: Stop Condemnation Request (RES-319).

6-24 Condemnation, State

6-24.1 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 Region RESM discusses the potential necessity to condemn with the AG's office.

6-24.2 Rules

A Notice of Final Action must be mailed to the taxpayer's address and a meeting held per RCW 8.25.290.

A Negotiator's Report (RES-320) containing proof of the final action meeting is submitted to the Acquisition and Title Section Manager.

After the final action is held, all offers are considered withdrawn and the acquisition is referred to the Attorney General's Office. 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 appropriate regional level of authority for administrative settlements.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees that 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.

6-24.2.1 In-State Owners

A. No parcel may be considered for condemnation until the PAS 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 PAS 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 PAS proceeds in the same manner as dealing with an alternate method by mail, except that a paragraph is added to the offer letter requesting an appointment and a chance to explain the state's offer in detail.

6-24.2.2 Out-of-State Owners

If it becomes necessary to condemn a parcel that belongs to an out-of-state owner, the PAS meets the requirements of RCW 8.25.290.

6-24.2.3 Exceptions

The PAS may deviate from the rules in Section 6-24 under the following circumstances:

A. The owner (owner's attorney) rejects the state's offer and instructs the PAS to submit the parcel for condemnation.

B. The owner is abusive and/or orders the PAS to "get out."

C. The final notice requirements shall be followed per RCW 8.25.290.

6-24.2.4 Precondemnation Agreements

A. Possession and Use Agreement. If, at the conclusion of negotiations, the only remaining issue is the amount of the just compensation, when so instructed by the Region RESM, the PAS attempts to obtain a Negotiated Possession and Use Agreement (RES-317) from the owners.

B. Compensation Agreement for Condemnation (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 PAS 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 PAS only at the request of the Region RESM who shall make his decision (1) upon the same criteria as to time set forth in 6-24.2.4.A and (2) consultation with the Acquisition and Title Section 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.

6-24.3 Procedures

6-24.3.1 Region Processing

A. If it becomes necessary to submit a parcel for condemnation and after the requirements of the final action notice are met, the PAS:

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 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:

Three copies (original plus two copies):

a. Negotiator's Report.

b. Diary of Right of Way Activities.

c. Approved DVs or AOSs and all updates.

Two copies (original plus one copy):

a. 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. Detailed information as to the clearance of encumbrances, easements (including private and utility), restrictions, maintenance obligations, etc. and parties to be named in the condemnation action must be contained in the Negotiator's Report. The detailed information must include the current beneficial interest and easement holders and their addresses.

b. Correspondence (offer letter, letters, e-mails, memorandums). In reverse chronological order (most recent on top).

One 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 the Headquarters Acquisition and Title Reviewer assigned to the region.

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 care to avoid any charge of coercion.

   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.

   c. If it is not possible to arrange a settlement, adds the diary (above) to the condemnation data package, and notes the addition in the "remarks" section of the Condemnation Report.

2. Coordinates with the Regional 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 PAS 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 Regional Administrator (or the project development engineer), the Region RESM, and AG's Office took place.

   a. Evidence of this conversation must be in the file when it is submitted. A short diary entry or copy of an e-mail 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 Assistant AG who is assigned to the case with information he or she might otherwise not have.

   b. Evidence of the final action procedures per RCW 8.25.090 must also be submitted.

6-24.3.2 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, the Region RESM signs and dates in the region action block of the Negotiator's Report, and transmits the data package to Headquarters.

6-24.4 Headquarters Processing

A. The Acquisition and Title Section Manager, or designee:

   1. Inputs appropriate data into the computer tracking system.

   2. Transmits the condemnation data package to the appropriate HQ Acquisition and Title Reviewer.

B. The HQ Acquisition and Title Reviewer reviews the Negotiator's Report and its accompanying data package to determine whether adequate efforts to obtain a settlement were made.

   1. If not, discusses the package with the Acquisition and Title Section Manager prior to returning the package to the region for further negotiation.

   2. If appropriate, proceeds with review of the Negotiator's Report transmittal package.

   3. If the transmittal is a "hardship" or "protective buying" condemnation, weighs all factors (e.g., nature of the hardship, state's construction schedule) and recommends to the Headquarters RESM whether to proceed to immediate condemnation or to let the case await the normal acquisition schedule.

C. HQ Acquisition and Title Reviewer:

   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) to be acquired. All copies are certified for use as court exhibits by the Acquisition and Title Section Manager.

   3. Checks the legal description given in the title report for the "before" ownership against the right of way plan to ensure conformance.

   4. Verifies the 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 PAS, title report, data from adjacent parcels) are used as required.

6. Coordinates with the Assistant AG 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 6-24.4.C.5.

   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. A cover letter to the AGO 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.

9. Makes the following distribution of the data packages:

   a. Attorney General, Transportation Division.

   b. Regional 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 (RES-319) 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.

6-24.5 Attorney General's Processing

The AAG 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 DV, the trial attorney coordinates with the Chief Counsel, Transportation Division, and the Region RESM 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 Regional Administrator or designee.

   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 6-24.5.G.1 and 2 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 (6-24.5.G. 1, 2, or 3) 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, which 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 6-24.5.L.

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 DV and who approved same.

3. Sends to the Headquarters RESM 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 Headquarters RESM two 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 AAG will initiate a voucher and warrant request to cover same and forward the voucher, warrant request and any necessary affidavits to the appropriate HQ Acquisition and Title Reviewer.

6-24.6 Closing

A. The Acquisition and Title Section Manager or appropriate HQ Acquisition and Title Reviewer:

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 to the Region RESM
5. Prepares the Condemnation Cover Sheet

6-25 Condemnation, Federal

6-25.1 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 6-24.2 (except for 6-24.2.4), 6-24.3.1, and 6-24.4 are followed.

6-25.2 Procedures

6-25.2.1 Region Procedures

The Region RESM:

A. Prepares a letter for the signature of the Regional 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.

6-25.2.2 Headquarters Procedures

The Acquisition and Title Section Manager:

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.
   8. Areas expressed in thousands of an acre.
   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 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.

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 FHWA Division Administrator signed by the Headquarters RESM 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 (ten copies).

      (4) Legal description (ten 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.

H. Checks and accepts the deed(s) from the USA to the State.

6-26 Damage Claims

6-26.1 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 (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), 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 Headquarters RESM 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 Headquarters RESM 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 Headquarters RESM refers the case to the Attorney General Division for an opinion.

E. Upon receipt of the opinion of the Attorney General, the Headquarters RESM forwards same to the Regional Administrator with the directions to proceed.

6-26.2 Procedures – State Liabilities

A. The Regional Administrator's staff prepares and submits the following data to document the Work Order Authorization (DOT Form 120-020) as specified in Chapter 1.

1. An estimate of all necessary costs including:
   a. Title report (if needed).
   b. Salaries (appraisers, reviewers, title examiners, PAS, relocation specialists, property management specialists 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) 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 Regional 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 Headquarters RESM 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 PAS 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.

6-26.3 Procedures – State Not Liable

When the Attorney General (Transportation Division) determines that WSDOT is not liable, the Regional Administrator informs the claimant by letter, and sends a copy of the letter to the Headquarters RESM. The Regional Administrator calls upon the Headquarters RESM and the Attorney General (Transportation Division) as needed in preparing the letter. The letter may be hand-delivered by the PAS thus permitting a personal explanation.

7-1 General
7-2 Title Functions – Region
7-3 Title Functions – Headquarters

7-1 General

A. Evidence of the ownership or of an interest in the title to real property is found in the records of the county in which the property is located. Public records affecting title are maintained by the county's assessor, auditor, clerk, registrar, and treasurer. Ownership records are also maintained by all title insurance company offices in each county.

B. Generally the state requires fee simple title to lands acquired for right of way purposes. Grantor's retention of reversionary rights is not acceptable in most cases.

C. Although the "Contracts for Title Evidence" vary somewhat as to fees, delivery schedules, etc., each provides that the state receive Preliminary Commitments for Title Insurance (PC) and any necessary Supplemental (SPC) for its acquisition information needs, and an ALTA owner's Standard Form Policy of Title Insurance insuring the state of Washington, Department of Transportation's acquisition. For specific provisions, refer to the appropriate title contract.

D. Since it is less expensive to obtain insured titles from the local title industry than it is to use staff personnel to conduct title searches, the Washington State Department of Transportation (WSDOT) uses the services of the title insurance companies almost exclusively. Only in an emergency situation are staff personnel used to conduct title searches. One provision of the contracts is that WSDOT may secure sundry title services such as copies of maps, copies of instruments, ownership information, etc., for a specified charge that, along with other charges, will be billed to WSDOT.

E. In Headquarters title work is performed under the supervision of the Acquisition and Title Section Manager. In the larger regions, title work is performed under the supervision of the Region Real Estate Services Manager (RESM) and when necessary is assisted by the Acquisition and Title Section Manager.

7-2 Title Functions – Region

7-2.1 General

The following sections describe title functions which are normally performed in the region.

The Region RESM is responsible for the performance of these title functions and may delegate these duties to members of their staff as appropriate.

The Region RESM coordinates with the Acquisition and Title Section Manager on any special problems.

7-2.2 Title Commitments (Reports)

The Region RESM or designee:

A. Upon receipt of maps or property descriptions from the Region Right of Way Plans Section, places an order for title reports.

   1. The order is placed with a title company insuring in the county in which the project is located.

   2. Title orders are normally placed with the title company on a rotational basis; however, this is balanced against the company's ability to deliver to the department's time requirements and company's ability to deliver accurate work.

      At times of large orders (20 or more parcels), it may be necessary to balance the orders between several title companies.

   3. Upon assurance that the title company is prepared to meet the project's time schedule, places the order as provided in the contract.

B. Upon receipt of title reports, determines whether all properties within the limits of the proposed project have been covered.

   1. Contacts the title company to correct any duplications, omissions, or discrepancies.

   2. Examines the title reports for access easements and road maintenance agreements. Reviews access easements and/or agreements to determine effect on parcel and identifies the ownership(s) benefitted by the easement. Physically inspects the property(ies) to identify parties in possession, width of easement. On limited access projects, the benefitted parcel(s) shall be identified as a separate parcel. On managed access projects, determines if the benefitted parcel should be identified as a separate parcel. Also coordinates with region access staff and the Acquisition and Title Section Manager, as needed.

3. When the field survey (by the Region Right of Way Plans Section) does not agree with the descriptions on the title reports, coordinates with the project engineer and contacts the title company and/or the county or city engineer's office to determine the legal status of the questioned property.

   Advises the Region Right of Way Plans Section on problems concerning the legal status of vacated streets or other questioned property.

4. Acts as liaison between the Region Right of Way Plans Section and the title company.

C. Confirms that the title company's bill is for the services provided, assures it meets contract requirements, and prepares voucher for payment.

D. Coordinates with the project manager on real estate matters bearing on interdisciplinary team activities, such as: ownership, contiguous properties, taxing districts, assessing districts, water rights, mineral rights, timber cruises, public recreation sites, and access, etc.

7-2.3 Right of Way Plans – Special Distribution

The Region RESM or designee:

A. At the time negotiations are to begin, furnishes informational copies (paper or electronic) of the approved right of way plans to:

   1. The title company or companies that provided the reports.

   2. The county assessor.

B. Distributes any subsequent map revisions resulting in a change to parcel definition as in 7-2.3A.

7-2.4 Acquisition and Condemnation

The Region RESM or designee:

A. Maintains and updates title commitments (reports).

B. Reviews the title reports with the Acquisition Specialist as required and advises the Acquisition Specialist on techniques for clearing encumbrances.

C. Orders Supplemental Title Reports (STRs) as specified in Chapter 6.

D. Drafts acquisition legal descriptions and/or assists the Acquisition Specialist in drafting them.

E. Reviews or drafts legal documents (deeds, easements, etc.) and/or assists the Acquisition Specialist.

F. Coordinates with the Acquisition and Title Section Manager or designee on *Right of Way Manual* interpretations as needed.

G. Conducts examination of all acquisition transmittals and negotiator's reports.

   1. Assures that transmittal package includes all items and is in order as specified in Chapter 6.

   2. Assures that encumbrances are clear in accordance with Chapter 8.

   3. Assures that instruments were prepared and executed in accordance with Chapter 9.

   4. Assures that vouchers were prepared and executed in accordance with Chapter 10.

   5. Conducts final review and processing of acquisition transactions (excluding condemnation).

   6. Assures that required data is entered in the computer database.

H. Assures that the title company's bills for supplemental fees, recording fees, and full value title policies meet the requirements of the contract and prepares voucher for payment.

   As to those acquisitions which are to be closed in escrow, verifies that the correct escrow fee plus sales tax and fees have been added to the acquisition voucher or will be paid by separate voucher.

   The bill is verified for correctness and paid as specified in Chapter 10.

7-2.5 Assistant Attorney General, Department of Transportation – Liaison

The Region RESM, or designee:

A. Using the procedures specified in the appropriate contract, obtains title evidence for the use of the Assistant Attorney General, WSDOT, in inverse condemnation proceedings and on damage claims in accordance with Chapter 6.

B. When (on interstate projects only) condemnation proceedings are to be filed in the federal court, obtains federal form certificates as specified in the contracts.

C. Compiles data on legal descriptions and parties defendant as requested by the Assistant Attorney General, WSDOT.

D. Makes specific note of any toxic/hazardous situations that will need to be addressed by the Attorney General's Office (AGO).

E. Submits requests for any needed legal opinion to the Headquarters Real Estate Services Manager, for coordination with the Assistant Attorney General, WSDOT, and other regions.

7-3 Title Functions – Headquarters

7-3.1 Acquisition

The Acquisition and Title Section Manager or designee:

A. Compliance Review

1. Reviews a minimum of 25 percent of a project's acquisition files for compliance with state laws and WSDOT policies and procedures including:

   a. Conveyance documents with emphasis on identification of correct parties, signatures, notaries, and legal descriptions.

   b. Clearance of title and encumbrances with emphasis on compliance with Chapter 8 and documentation of risk analysis.

   c. That administrative settlements are justified in compliance with current WSDOT policy, documentation, and justification procedures.

2. Sends a copy of the compliance review to the appropriate region personnel.

3. Coordinates corrective action, if necessary, with RESM or designee and documents file accordingly.

4. Posts documents to the appropriate Real Estate Services ownership maps.

5 Inputs required data into the computer database.

6. The acquisition file is retained in the appropriate location pursuant to the records retention schedule.

7-3.2 Condemnation

The Acquisition and Title Section Manager or designee:

A. Using the procedures specified in Chapter 6 prepares the information for the AGO.

B. Reviews AGO documents and processes payments.

C. Provides expert advice and testimony when requested.

7-3.3 Conveyances of Excess and/or Surplus Property

The Acquisition and Title Section Manager or designee:

A. **Title Checks** – Performs a preliminary title check to determine what interest WSDOT holds in subject property and those exceptions and/or reservations which must be made in any proposed conveyance.

B. **Descriptions** – Reviews descriptions submitted by property management or writes and reviews descriptions of property being conveyed.

C. **Conveyance Documents** – Reviews documents of conveyance for completeness and accuracy prior to final execution.

D. **Posting** – Posts completed conveyance to Real Estate Services maps.

7-3.4 Records

The Acquisition and Title Section Manager or designee:

A. **Real Estate Services Maps** – Maintains maps including entry of new right of way plans, entry and reposting of plan revisions.

B. **Real Estate Services Sundry Site Maps** – Maintains pit and stockpile record books and maps.

C. **Advise Others** – Advises and assists others on matters involving right of way acquisitions and plans including, but not limited to, retrieval of data from archives and interpretation of evidence.

D. Review and provide records as required under public disclosure.

E. Maintains all paper and electronic systems.

F. Assures that records are retained and submitted for retention according to the Real Estate Services Records Retention Schedule.

8-1 General
8-2 Clearance of Encumbrances
8-3 Lien Encumbrances
8-4 Property Rights Encumbrances
8-5 Personal Rights 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 Headquarters Real Estate Services Program Administrator (RESPA) determines the acceptable title risk in each state acquisition. A title report, consisting of a "Commitment for Title Insurance" plus any "Supplemental Title Reports" (STRs), is obtained for each parcel. The title report lists the recorded encumbrances affecting the title. In addition, the Property and Acquisition Specialist (PAS) may discover other encumbrances (e.g., unrecorded leases).

The following sections discuss techniques for general clearance of encumbrances and procedures for clearance of individual encumbrances.

In some situations it may be difficult to clear encumbrances in the prescribed manner. In such cases, check with the title company to see what they will require to clear the encumbrance.

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. Any deviations from the manual must be authorized and approved on a case by case basis. The Region Real Estate Services Manager will analyze and document the risk associated with the deviation. All deviations must be approved by the Acquisition and Title Section Manager.

B. Clearance of encumbrances is normally accomplished by the region office in non judicial 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 commitment 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 including approvals for any deviation.

8-2.1.2 Procedures

A. The Region RESM, or designee:

1. Investigates each encumbrance listed on the commitment and any supplementals 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 (RES-337) in accordance with Section 8-2.2.

B. The PAS:

1. Includes the Encumbrance Report on the Right of Way Acquisition Transmittal (RES-353), 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 (RES-301) in accordance with Chapter 6.

8-2.2 Escrow Technique

8-2.2.1 Rules

A. Transactions are closed in escrow if:

1. The Region RESM feels an escrow is required to protect the state's or the property owners' interests; or

2. Acquisitions involving payoff of monetary encumbrances. (e.g., Deeds of Trust, Judgments, Taxes); or

3. 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).

8-2.2.2 Procedures

When in compliance with Section 8-2.2.1 it is necessary to close a transaction in escrow, the PAS:

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 (RES-337).

E. Provides an executed copy of the completed Escrow Agreement to the grantors and transmits the executed original with the Right of Way Acquisition Transmittal.

F. Prepares the Real Property Voucher (RES-321) as specified in Chapter 10. The voucher(s) is(are) to be signed by the grantor(s) (claimants) and directs that the funds 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 when the treasurer of each county completes the tax roll and provides notification of said completion each year. The entire year's taxes become delinquent if the first half taxes are not paid on or before April 30. The second half taxes become delinquent if not paid on or before October 31.

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 accepted and approved by WSDOT's authorized agent. If the approval date is between:

1. **January 1 and Notification of the Completed Tax Roll** – The region will have to determine the tax payable date for each county.

2. **January 1 through June 15** – At least the first half real property tax must be cleared.

3. **After June 15** – 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.

8-3.1.3 Procedures

8-3.1.3.1 Payment of Current Year's Tax

A. For either a total or a partial acquisition, the PAS, or at the owner's discretion:

1. Allows the owner to pay the tax lien. The PAS includes proof of the payment with the Right of Way Acquisition Transmittal.

2. Pays the tax lien by a separate Real Property Voucher (RES-321) made payable to 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 PAS requests that this letter be prepared and signed by the appropriate official of the mortgage company guaranteeing payment of the real property taxes. The PAS 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 PAS 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 PAS 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 PAS 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 may be prepared by the PAS, is signed by the owners and is approved by the county assessor and the county treasurer. The PAS includes the Tax Set Over Letter (RES-334) 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 procedure does not apply to total acquisitions

8-3.2 Personal Property Taxes

8-3.2.1 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.

8-3.2.2 Rules

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.

8-3.2.3 Procedures

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

   1. Allows the owner (tenant) to pay the tax lien. The PAS includes proof of 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. The amount of this voucher is shown as a deduction on the "primary" 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.

8-3.3 Assessments

8-3.3.1 General

A. There are two basic types of assessments:

   1. 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. Most of these assessments are lump sum levies (which usually are payable over a number of years).

   2. When the operation is continuous, e.g., a drainage district, diking district, surface water management, fire district, an assessment is usually levied annually and thereby become a recurring lien in the same sense as real estate taxes on private property.

B. The taxing district per RCW 84.56.035 may contract with the county treasurer to collect the special assessments.

C. Assessments cannot be set over to the remainder property unlike property taxes.

   Note: The Acquisition Specialist should notify the Property Management Section of any ongoing assessments by Memorandum or e-mail.

8-3.3.2 Rules

A. The lien of current and delinquent assessment is cleared:

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.

B. Irrigation districts are cleared per RCW 87.03.810 and RCW 87.03.815.

8-3.3.3 Procedures – Irrigation Districts

A. If the Regional Administrator determines the department-controlled lands or highways will remain in irrigable status, the annual assessments are handled by the Property Management Program as specified in Chapter 11.

B. If the Regional Administrator determines that the department-controlled lands or highways should be removed from an irrigable status. Per RCW 87.03.810 and RCW 87.03.815, the Region RESM determines a lump sum payment for lands that are to be removed from irrigable status 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.

C. The Region RESM:

1. Prepares a resolution for action by the Board of Directors of the irrigation district.
2. Prepares a Real Property Voucher (RES-321) 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 the computer system.

   b. Transmits the resolution and Real Property Voucher together with the determination of the sum due to the Region RESM as a separate acquisition using the procedures set forth in Chapter 6 for approval.

8-3.3.4 Procedures – All Other Assessing Districts

A. The Region RESM, or designee:

   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 (RES-214) reflects any market value added by the improvement for which the assessment was levied.

   3. On acquisitions of less than fee title: coordinates with the Region RESM to determine the required actions.

   4. Instructs the PAS on the appropriate steps to be taken to clear, assessments, and any amounts to be deducted from the "principal" Real Property Voucher (RES-321) because of any separate clearance of assessment liens.

B. The PAS:

   1. Clears assessment liens as instructed by the Region RESM by adapting the procedures given in Section 8-3.13, except that:

      a. It is not possible to arrange payment of an assessment from the reserves held by the mortgagee.

      b. The request for an assessment segregation is directed to the proper assessing district officials. (***Note:*** Set overs of assessments are *not* authorized by law but may be arranged at the discretion of the assessing district involved.)

      c. The amount of all assessments to be paid is shown as "Deductions" on the principal Real Property Voucher (RES-321).

   2. Shows the method for clearance on the Encumbrance Report.

8-3.4 Deeds of Trust and Mortgages

8-3.4.1 General

Deeds of trust and mortgages are discussed together. For the purpose of this section, both are encumbrances cleared with either a reconveyance document or a satisfaction of mortgage, respectively, and may require payment of funds.

Most deeds of trust and mortgages contain a condemnation/eminent domain or an acceleration clause, if all or a portion of the property is sold, 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.

In the following discussion, the language appropriate to a deed of trust is shown first, with the language appropriate to a mortgage shown in parentheses. The term "trustee" is appropriate only to deed of trust and is used only in that context.

8-3.4.2 Rules

A. A full reconveyance (satisfaction of mortgage) is required to clear a deed of trust (mortgage) in the case of any total acquisition.

B. A partial reconveyance (partial release of mortgage) is not required on partial acquisitions when the dollar amount of compensation is under $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 $10,000 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 Region RESM and the Regional Administrator (or delegate).

C. In the case of partial acquisition of fee and an easement, the following clause should be added to the partial reconveyance (partial release of mortgage) "The Beneficiary (Mortgagee) herein consents to an easement for the purposes of ____over the following described property_____"

   Note: The Request for Partial Reconveyance should also recite this clause.

D. In the case of an easement only acquisition, the beneficiary (mortgagee) should also execute the document consenting to the easement.

E. For the acquisition of temporary rights. Based upon the length of time involved, the compensation, the degree of interference, and size of the easement, consider having the beneficiary (mortgagee) execute the document

F. In accordance with Chapter 6, certain "incidental expenses" incurred in transferring property to the state are payable by the department including reasonable fees for processing and reconveyance fees.

8-3.4.3 Procedures

The PAS determines the identity of the "servicing agent" by asking the grantor where the deed of trust (mortgage) payments are made. The servicing agent is the initial point of contact for dealing with the beneficiary (mortgagee).

8-3.4.3.1 Total Acquisition

A. **Instruments Obtained** – If the beneficiary (mortgagee) is willing to deliver a full reconveyance (satisfaction of mortgage) without funds in hand, the PAS:

1. Obtains the signatures of both the trustor (grantor) and the beneficiary (mortgagee) on the Real Property Voucher (RES-321) using the mailing address of the beneficiary (mortgagee) as the address of the "claimant."

   Note: As an alternate, the amount to be paid to the beneficiary (mortgagee) may be paid by a separate Real Property Voucher (RES-321) made payable to the beneficiary (mortgagee) 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 beneficiary (mortgagee) take all necessary steps to file a full reconveyance (satisfaction of mortgage) with the county auditor/ recorder where the property is located.

3. Obtains the recording data of the full reconveyance (satisfaction of mortgage) and recites same in his Encumbrance Report (RES-353, Right of Way Acquisition Transmittal) as reference for the clearance of the encumbrance.

B. **Instruments Guaranteed** – If the beneficiary (mortgagee) is unwilling to deliver a request of full reconveyance (satisfaction of mortgage) without funds in hand (beneficiary cannot deliver a reconveyance, the reconveyance is prepared by a trustee), the PAS:

1. Requests a letter of guarantee in lieu of the full reconveyance (satisfaction of mortgage) if the beneficiary (mortgagee) is an established lending firm. This is a letter signed by an appropriate officer of the beneficiary (mortgagee) that states they will request a full reconveyance (satisfy the mortgage) upon receipt of the funds for the same.

2. Submits the transaction to escrow if the beneficiary (mortgagee) is an individual or is unwilling to deliver a reconveyance (satisfaction of mortgage) prior to delivery of funds.

8-3.4.3.2 Partial Acquisition

A. Where a partial reconveyance (partial release of mortgage) is not required the following procedures apply:

1. Under $10,000:

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

2. Between $10,000 and $25,000:

   a. The PAS completes the Request to Accept Encumbrance (RES-333) and submits it prior to transmittal to the Region RESM for consideration.

   b. The Region 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 Region RESM, the PAS obtains written permission from the property owner that they have been informed of any condemnation, due on sale, or acceleration clauses and associated risk.

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 request and the PAS clears the encumbrance, per normal procedure.

3. Over $25,000:

   The procedure outlined above for $10,000 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.

B. When a partial reconveyance (partial release of mortgage) is required, the PAS determines, by coordinating with the beneficiary (mortgagee) and the grantor, any necessity to make payment of money to the beneficiary (mortgagee). 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 deed of trust (mortgage).

1. Some payment of money to the beneficiary (mortgagee) 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): PAS obtains execution of a Real Property Voucher and submits for mortgagee's signature a Partial Release of Mortgage (RES-308 and RES-309).

   b. Partial Reconveyance: PAS obtains execution of a Real Property Voucher and prepares Request for Partial Reconveyance (RES-310) and Partial Reconveyance (RES-311). The Request for Partial Reconveyance is signed by the beneficiary, requesting the trustee to execute the partial reconveyance. The PAS, using the "Request" as his authority, obtains execution of the Partial Reconveyance from the trustee.

2. If no payment of money to the beneficiary (mortgagee) is required by the parties: the PAS proceeds as in Section 8-3.4.3.1.A except in this instance the trustor (grantor) is the payee and the beneficiary (mortgagee) does not join in execution of the Real Property Voucher.

   The PAS:

   a. Includes in the partial reconveyance (partial release of mortgage) the appropriate clause (see Chapter 9) authorizing full payment to the grantor, and

b. Includes in the request for partial reconveyance the appropriate clause (see Chapter 9) authorizing full payment to the grantor.

8-3.4.3.3 Security Instruments That Include an Assignment of Rents

8-3.4.3.3.1 General

Certain loans may secure payment of a debt and be a lien on commercial property that is occupied by tenant(s). The PAS, with the assistance of the region title examiner, needs to be familiar with the provisions in the loan documents and understand how to remove any Assignment of Rents.

8-3.4.3.3.2 Procedures

There are many different types of security instruments. Each must be read for how to obtain a release of the Assignment of Rents. Some provide that the Release of Assignment of Rents must be executed solely by the lender and others consider the Assignment of Rents to be released upon the execution of the reconveyance.

8-3.4.3.4 Mortgage Electronic Registration Systems (MERS) Reserved

8-3.5 Judgments

8-3.5.1 General

A. A 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 will expire. It is often advantageous to the debtor to ignore the judgment if the time for levy by the creditor has almost expired.

   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 on the date of filing the judgment.

   2. All properties to which the debtor acquires ownership or a contract purchaser's 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.

8-3.5.2 Rules

A. Judgments are cleared by payment, partial payment, and/or release of the property being acquired.

B. On partial acquisition or acquisition of easements, the Region RESM may acquire subject to the judgment with appropriate documentation.

C. ***Except* that all child support judgments shall be cleared.**

D. 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 expired.

8-3.5.3 Procedures

A. **Identity of Debtor** – The PAS determines whether the judgment debtor and the state's grantor is the same person. ***Note:*** The title company may require an identity affidavit for completion.

B. **Verification of Status of Judgment Against State's Grantor**

1. **Expired** – If the Title Report and/or the PAS's investigation indicate that no action has been taken to collect or renew the lien within the past ten years, the PAS requests that the Region RESM obtain a STR showing that the judgment is eliminated.

2. **Paid** – If such judgment has been paid, the PAS 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 PAS 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.

   Note: An Assignment of Judgment must include an acknowledged execution by the judgment creditor.

C. **Clearance**

1. If the conditions stated in Section 8-3.5.3.B.1 appear to pertain, but a new STR does not show that the judgment has expired, the PAS submits a complete explanation of the evidence to the Region RESM requesting that specific guidance be obtained from the Acquisition and Title Section Manager.

2. If the judgment remains of record against the state's grantor and is to be cleared, the PAS:

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 (Form RES-321).

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 an Abstract judgment, has the satisfaction or partial release filed in the original county that the judgment was filed.

8-3.6 Miscellaneous Monetary Liens

8-3.6.1 General

Any monetary debt may be reduced to judgment 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. **Mechanics' and Materialmen's Liens** – Valid for a period of eight calendar months. However may be enforced by court action or, subject to further specific conditions (per RCW 60.04.141).

2. **Federal Tax Lien** – Delinquent federal taxes are a lien when properly filed with the appropriate county auditor. May be considered expired after ten years from date of filing unless a continuance has been recorded.

3. **Department of Social and Health Services Lien for Child Support** – Per RCW 26.18.055 when not paid, becomes a lien against all real and personal property of the debtor. It is WSDOT's policy to obtain a release of lien for the property acquired. There are no exceptions for clearing this type of lien.

4. **Uniform Commercial Code (UCC) Financing Statement** – The Uniform Commercial Code is a nationwide system for the simplification, clarification and modernization of the laws regarding commercial transactions as defined per RCW 62A.1-102.

B. At time of death, debts of the decedent become a lien against the estate without necessity for filing or recording and are generally only questioned in the commitment. 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 that may require clearance, e.g., tax warrants, financing statements.

8-3.6.2 Procedures

A. **Mechanics' and Materialmen's Liens**

1. **Verification of Status of Lien** – If eight months have lapsed since the date of filing of the lien, and no pending action to enforce the lien, the PAS obtains an STR (by request through the Region RESM) removing the lien.
2. **Clearance** – The following procedures apply only if an action to enforce the lien in court has not occurred:
   a. The attachment period is eight months.
   b. The lien is released by the claimant.
   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 RESM in coordination with the Section Manager of Acquisition and Title.
   e. The documents of release are recorded with the county auditor.

   Note: If an action has been filed to enforce the lien then the procedures for releasing a judgment shall apply.

B. **Federal Tax Lien** – The PAS clears the Federal Tax Lien by:

1. A request for the amount of funds necessary to clear the lien from the acquired property should be obtained from the Internal Revenue Service Lien Payoff Unit.
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. **UCC Financing Statement** – Per RCW 62A.9A-502(b) a financing statement is considered sufficient as fixture filing if it indicates that it is to be filed for record in the real property records.

1. If there is a record of the UCC filed with county auditor then a termination of UCC must be filed with said auditor.

2. Whether or not a recorded UCC is filed, since the only requirement is that the filings indicate it is to be filed in the real property records, an UCC search needs to be completed with the Washington State Department of Licensing.

HQ Acquisition and Title Section have access to the UCC Web site. Please contact HQ for any searches.

If any UCCs are found affecting the real property, they will need to be released by filing with the Department of Licensing a termination once the creditor has been paid.

D. **Lien on Estate of Deceased** – Refer to Section 8-5.5.

E. **Miscellaneous Monetary Encumbrances** – When the Title Report or any information obtained by the PAS discloses or raises questions concerning possible existence of other types of indebtedness on the part of the state's grantor, the PAS refers the information to the RESM and requests specific guidance.

8-4 Property Rights Encumbrances

8-4.1 Real Estate Contracts

A. A real estate contract is similar to an installment plan transaction between seller (vendor) and purchaser (vendee) 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 a Warranty Deed, a Quitclaim Deed, or by a Seller's Assignment of Contract and Deed.

The purchaser's interest is transferred by a Quitclaim 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 PAS 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 8-4.1.1.B).

B. The Region RESM determines the identity of all necessary parties in interest and the "equitable owner." In complex cases, the Region RESM coordinates with the Acquisition and Title Section Manager.

8-4.1.3.2 Distribution of Funds

After obtaining agreement of the "equitable owner" to the state's offer to purchase, the PAS contacts all necessary parties in interest to establish a mutually-agreeable disbursal of funds. If the parties cannot agree on the distribution, the PAS turns in the parcel for possible condemnation.

8-4.1.3.3 Conveyance

A. **Joint Conveyance** – Two alternatives are available:

1. Joint Conveyance, Single Voucher, and Single Payee: If there is no distribution of funds required, or if the parties wish to arrange their own private distribution of funds, the PAS 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 PAS has the contract purchaser (owner) and the contract seller join on an appropriate instrument. The "primary" Real Property Voucher is executed by and made payable to the contract purchaser and indicates (a) the full amount of the state's transaction, and (b) a deduction of the amount to be paid separately to the contract seller. A secondary Real Property Voucher is executed by and made payable to the contract seller for the amount deducted from the "primary" voucher.

B. **Separate Conveyances** – The PAS 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 Section 8-4.1.3.3.A.

C. **Security Assignees** – The PAS clears the interest (as to the state's acquisition) of any security document assignee following the procedures for clearing of a mortgage except that a Quitclaim Deed is used instead of a Satisfaction of Mortgage or a Partial Release of Mortgage.

D. **Escrow** – If the transaction meets the requirements for closing in escrow, the PAS:

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 (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 that, if exercised, would extend the term of the lease.

A lease may include an option to purchase all of or a portion of the property being leased.

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).

B. A lease and sublease interest in effect on the date of delivery of the initial Firm Offer Letter are cleared by the state when they conflict with acquisitions of fee title, easements, or permits.

1. A Partial Release of Lease (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 (RES-313) 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 acquisition.

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 does not acquire property subject to an outstanding lease, i.e., assuming the position of the lessor.

8-4.2.3 Procedures

8-4.2.3.1 Clearance of Lease Interests

A. **Release** – The PAS:

1. Obtains the signature of the lessee on a Partial Release of Lease (RES-312) or Release of Lease (RES-313). The identity of the lessees should be established per Chapter 6 on the Landlord Tenant Form (RES-352)

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. **Commercial Lessees** – 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 the PAS):

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 (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 8-4.2.3.2.B.2) without breaking down the amount payable to each signatory.

   b. Obtains the signature of the seller or mortgagee on the Fixtures and Improvements Agreement (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 PAS obtains a copy of such satisfaction for inclusion in the transaction package.

   b. If the chattel mortgage was recorded, the PAS 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.

7. If access rights are acquired in the instrument from the owner, they must also be acquired in the release from the lessee.

8. See Chapter 6 for refunds of deposits.

C. Residential Leases

1. Per RCW 59.18.200 (Landlord/Tenant Act) when premises are rented for an indefinite time whether by oral or written lease with monthly or other periodic rent reserved, such tenancy shall be construed to be a month to month tenancy. These leases shall be terminated by written notice of 20 days or more, preceding the end of any of the months or periods of tenancy. Therefore when WSDOT requests a release of lease from a residential tenant, the displacee lease must be signed concurrently in order to not violate the statute.

2. See Chapter 6 for refunds of deposits.

8-4.2.3.2 Acquisition Subject to Lease

A. When the PAS has reached agreement with the owner of land to be acquired but finds that it is subject to a lease that the lessee refuses to release and *all* the conditions of Section 8-4.2.2.D are present, the PAS requests the RESM to obtain the approval of the Headquarters RESM for acquisition subject to the lease.

B. The Region RESM, by memorandum setting forth all the facts called for by Section 8-4.2.2.D, requests approval of the Headquarters RESM for acquisition subject to the lease. If such approval is obtained, directs the PAS to acquire subject to the lease; if approval is not forthcoming, directs the PAS to turn the parcel in for condemnation.

C. If the PAS is directed to acquire subject to the lease, the PAS 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 fee interest and/or easements for construction and operation of their facilities. 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 Region Real Estate Services Office should work closely with the Region Utilities Office to ensure that all utility property rights issues are addressed.

8-4.3.2.1 Real Property Interests

A. Responsibilities:

   1. **Railroad Utilities and Bonneville Power Administration Utilities** – Any interest in real property (operating and nonoperating) is cleared as specified in Chapter 6.

   2. **All Other Utility Properties** – Any interest in real property (operating or nonoperating) held by a utility company (except those held by a railroad or the Bonneville Power Administration) is cleared by the Region RESM as specified in Chapter 6.

8.4.3.3 Procedures

8.4.3.3.1 Identification of Interests

The Region Utility Engineer (or designee) and the Region RESM (or designee):

A. In the early stages of plan development, determines the location of all utility interests that need to be cleared. Determination is made by:

   1. Research of existing utility permits or franchises held in the Region Utilities Office.

   2. Inspection and Subsurface Utility Engineering (SUE) process investigation.

   3. Examination of all title reports and easement documents.

B. Prepares a summary of their findings to the region project engineer listing each location on a project encumbered by a utility interest. The following information should be given in each instance:

   1. The parcel number affected, if assigned.

   2. The owner of the utility interest and the type of utility service.

   3. The location, bracketed by the pertinent Highway Engineer's Stations delineating a crossing or encroaching interest.

   4. The type of property interest held, e.g., fee or easement.

   5. Whether the property is classified "operating" or "nonoperating."

   6. The action required to clear the encumbrance.

8-4.3.3.2 Clearance

The Region RESM (or designee):

A. Prepares the appropriate instruments:

   1. A Quitclaim Deed (RES-306) is used if the utility system is to be relocated or otherwise removed from its existing right of way.

   2. A Subordination Agreement (RES-314) is used if the utility system is to be reestablished remaining within its existing right of way, crossing or encroaching on the state's acquisition. (***Note:*** A Subordination Agreement is intended for use only when a utility company cannot convey its rights to the state due to restrictions on conveying operating properties during periods of indebtedness.)

B. Coordinates with the Region Utility Engineer as necessary on presenting their respective matters to representatives of the affected utility.

C. Transmits instruments pursuant to Chapter 6.

8-4.4 Private Easements

8-4.4.1 General

An 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 benefitted parcel is the dominant estate and the encumbered parcel is the servient estate. Generally, an appurtenant easement right will travel with the conveyance of the benefitted parcel, even if not mentioned in the conveyance.

8-4.4.2 Rules

A. The state recognizes an easement when it is evidenced by a written (recorded or unrecorded) document.

B. An easement right affected by the state's acquisition is cleared as to the encumbered parcel by acquisition of such easement rights as are appropriate from the benefitted parcel.

C. When the state acquires all of both the dominant and the servient estates, or the entire dominant estate and so much of the servient estate as contains the easement, the interests merge (see Section 8-4.4.3.C).

8-4.4.3 Procedures

A. The Region RESM:

1. 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 requests that the Acquisition and Title Section Manager accept such easement.

2. Confirms the ownership(s) benefitted by the easement pursuant to Chapter 7.

B. The PAS assigned to the encumbered parcel:

1. Acquires the property and/or property rights called for by the state's project plans.

2. If benefitted and encumbered properties are separate parcels, all parcels should be cleared and closed simultaneously unless the RESM coordinates with the Acquisition and Title Section Manager

and obtains approval from the Attorney General's Office to clear and close separately prior to notating the Encumbrance Report that the encumbered parcel and the benefitted parcels will be cleared and closed separately.

3. If benefitted and encumbered properties do not have separate parcel numbers, the encumbrance is cleared per Chapter 8.

   Note: It is recommended that the same PAS should be assigned to the encumbered and benefitted parcels.

C. For Managed Access, the PAS assigned to the benefitted parcel(s) obtains (an) instruments in accordance with the following:

   1. Benefitted Parcel is Outside the State's Acquisition – The PAS obtains a Quitclaim Deed (Release Easement) (RES-355) from the parties in interest in the benefitted parcel. The Quitclaim Deed is completed in the usual manner outlined in Chapter 9.

   2. Total Acquisition of Benefitted 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 Benefitted Parcel – Obtains the normal instrument (see Chapter 6) appropriate to the partial acquisition as called for by the project plans. Also obtains a Quitclaim Deed (Release Easement) (RES-355) to release the encumbered parcel.

   4. If prior approval has been obtained makes appropriate notation in his Encumbrance Report to cross-reference the transaction to the encumbered parcel(s).

      Note: If there are road maintenance obligations, these should be reviewed with the RESM or designee to determine the effect on the acquisition.

D. For Limited Access, the PAS assigned to the benefitted parcel(s) obtains an instrument in accordance with the following:

   1. Benefitted Parcel is Outside the State's Acquisition and is not authorized to use the encumbered parcel's access as part of the easement. The PAS obtains a Quitclaim Deed (Release Easement) (RES-355). The Quitclaim Deed is completed in the usual manner outlined in Chapter 9.

   2. Total Acquisition of Benefitted 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 Benefitted Parcel – Obtains the normal instrument (see Chapter 6) appropriate to the partial acquisition called for by the project plans. Also obtains a Quitclaim Deed (Release Easement) (RES-355) to release the encumbered parcel.

4. Acquisition of Access Use Only – Obtains the easement's rights to use the encumbered parcel's access per the procedures in Chapters 6 and 9. Also obtains a Quitclaim Deed (Release of Easement) (RES-355).

5. If prior approval has been obtained makes appropriate notation in the Encumbrance Report to cross reference the transaction to the encumbered parcel(s).

8-4.5 Mineral Rights

8-4.5.1 General

A mineral right (reservation) is a right to extract a mineral from the earth or to receive payment, in the form of royalty, for the extraction of minerals. "Mineral" may have different meanings depending on the context and there is no universal definition. However, "mineral" generally includes: fossil fuels (oil, natural gas, and coal), metals and metal-bearing ores (gold, copper, and iron), non-metallic minerals and mineable rock products (limestone, gypsum, building stones, and salt), and sand, gravel, etc.

A mining claim is a form of surface ownership and is discussed in Chapter 6.

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.

For further information on mining and mineral rights, see Chapter 78 RCW.

8-4.5.2 Rules

A. Mineral rights that 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 that 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 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 (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 Acquisition and Title Section Manager for a project-wide determination of necessity for clearance.
4. Assigns acquisition in accordance with the determinations made pursuant to Sections 8-4.5.2 and 8-4.5.3.A.3, recognizing that one encumbrance may affect several parcels.

B. The PAS:

1. Determines the present ownership of the outstanding (severed) mineral rights that are assigned to be cleared.
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 Quitclaim 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 modified (if the holder insists on reserving mineral rights), obtains a Quitclaim 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. Obtain a Quitclaim Deed.

4. If mineral rights cannot be acquired, reports the facts to the Region RESM in the Diary of Right of Way Activities (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 (Chapter 90.03 RCW), 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.

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 that may include but is not limited to:

   a. A construction item for reconnection or new connection (see Chapter 6).

   b. An agreement 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), and location of the respective sources.

B. The Region RESM forwards each request to the appropriate region office of the Department of Ecology, requesting that each reply be directed to the Region 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 PAS:

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 the transaction package.

C. If the settlement is by agreement, see Chapter 6.

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 Acquisition and Title Section Manager on handling appropriate to the individual case.
4. If the reservation, restriction, or defect does not affect the state's acquisition, instructs the PAS to ignore the reported encumbrance.

B. The PAS:

1. Handles encumbrances in accordance with instructions by the Region RESM as in Section 8-4.7.3.A.
2. Makes appropriate explanations in his Encumbrance Report (see Section 8-2.1.2.C).

8-4.8 Vacated Streets and Roads

8-4.8.1 General

Streets and roads are vacated by either city or county ordinance. Such vacations will be noted in the PC.

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 PAS 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. An unrecorded claim of title to a vacated street or road must usually be perfected by a court decree.

C. Per RCW 36.87.090 if the street or road is not dedicated by a plat, the street may be considered vacated under the following conditions:

1. 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.

2. 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.

Note: Check with title company for insurance requirements.

8-4.8.3 Procedures

A. The PAS:

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.

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 Acquisition and Title Section Manager to determine the appropriate course of action (e.g., condemnation, allow the claim, and obtain a new appraisal).

2. Instructs the PAS 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 that 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 a memorandum to the Manager 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 Acquisition and Title Section Manager 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 Acquisition and Title Section Manager submits to the Region RESM a status report on the road upon request (see Section 8-4.9.3.A.1).

8-4.10 Riparian/Littoral Rights

A. The rights of a riparian/littoral owner (see Chapter 3) may be so affected 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 PAS 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) 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 PAS should in all cases consult with the Region RESM and/or the Acquisition and Title Section Manager if any question should arise on this subject. The PAS should also enter into such consultations if the Title Report should raise such a question.

D. Clearance is obtained, usually by Quitclaim Deed (of riparian/littoral rights appurtenant to the affected property), in accordance with instructions received from the Region RESM or the Acquisition and Title Section Manager.

E. Compensation for loss of affected 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 (life tenant) and the holder of the

remainder (remainderman), or if there are no remaindermen named, then upon termination of the life estate, the possessory 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 life tenant and the remainderman.

8-5.1.2 Rule

The state recognizes all parties in interest.

8-5.1.3 Procedures

The PAS:

A. Investigates to determine which party (life tenant or remainderman) is in possession.

   1. If life tenant is in possession, determines address of remainderman.

   2. If remainderman is in possession, determines if the life tenant is alive or deceased.

      a. If life tenant 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 life tenant is alive, determines address.

   3. If neither is in possession, determines interest claimed by possessor and facts concerning status and addresses of life tenant and remainderman.

B. If both life tenant 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 life tenant nor remainderman are in possession, clears interest of possessor as the nature of his interest dictates.

3. As an alternate to 1 and 2 above, the signatures of the life tenant 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 life tenant is deceased, obtains execution of deed and Real Property Voucher by remainderman (or remaindermen) only and clears life tenant's interest by including copy of death certificate in the transmittal package.

D. If for any reason (except the death of the life tenant) it is impossible to secure the signatures of both the life tenant 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 Procedures

A. Party of interest has been adjudicated incompetent through a court determination. 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 PAS:

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 PAS and also may:
   a. Contact relatives of interested party for additional information.
   b. Refer matter to the Acquisition and Title Section Manager for recommendations.
2. Directs the PAS 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 from a minor only through the services of a properly authorized guardian.

8-5.3.3 Procedures

The PAS:

A. If the party in interest is a young person, requests evidence of majority (e.g., drivers license, birth certificate, marriage license).

B. If the party in interest is a minor, handles the transaction through a guardian as described in 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 and an appropriate court action must be initiated in this state or instruments must be executed by both parties.

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 (Chapter 6.36 RCW).

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 PAS:

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 a STR.
3. Provides the PAS with any necessary special instructions.

C. The PAS closes the transaction dealing with the parties in accordance with any special instructions and the following, as detailed in Chapter 9, 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.

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.
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.
4. If the court action took place in another state, joins both parties in a conveyance and/or in accordance with special instructions from the Region RESM.

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 PAS:

A. Confirms that the probate has been filed by obtaining an STR.

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 PAS proceeds as described in Section 8-5.5.1.B, except that a letter guaranteeing payment of the taxes is obtained in addition to the usual instruments.

8-5.5.2 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 PAS:

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 STR that indicates who can convey title and the basis upon which the title company will insure that title.

D. The PAS deals with the heirs named in the STR and includes them on the instrument to the state.

E. If an heir cannot be located:

1. The PAS submits a written summary in his Diary of Right of Way Activities to the Region RESM discussing the extent of the search.

2. The Region RESM:

a. Coordinates with the Acquisition and Title Section Manager:

(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 PAS in the Diary of Right of Way Activities and returns same to such agent for completion of action.

8-5.5.3 Community Property Agreement

If the decedent and the surviving spouse executed a community property agreement, the PAS:

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" as provided in the previous section.

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 STR as provided in the previous section, 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 Headquarters RESM, prior errors in parties may be:

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 Quitclaim Deed, or an affidavit).

B. The PAS:

1. Attempts to locate the party indicated in the title report.
2. If the PAS locates the party, requests that the party execute the necessary instrument.
3. If the PAS fails to locate the party or if the party refuses to execute the instrument, submits a written summary to the Region RESM in the 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 Title and Condemnation Program Section Manager requesting instructions.

D. The Acquisition and Title Section Manager reviews the information and may request either court action or may waive further action.

E. The Region RESM inserts the instructions on the PAS's Diary of Right of Way Activities dates and initials same and instructs the PAS to, either:

1. Complete a Negotiator's Report (RES-320), or
2. Complete all other parcel transactions ignoring or handling the error in parties in accordance with any special instructions.

9-1 General
9-2 Elements
9-3 Document Title
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9-1 General

9-1.1 Introduction

This chapter specifies the instruments of conveyance used by the department, how they are prepared, and the standard, the special, and/or the variable language used therein. The types of instruments most commonly used are in electronic format. Unless otherwise specified, all instruments are prepared, signed, and acknowledged in such form and manner as to make them eligible for recording with the county auditor. The preparation of conveyance documents is usually done after review of a current preliminary commitment for title insurance (PC) also known as a title report. The Region Title Examiner will assist in understanding any special requirements.

Refer to Chapter 3 for glossary and abbreviations.

Refer to Chapter 6 for types of title or interests to be acquired and appropriate instruments of conveyance.

Refer to Chapter 8 for appropriate instruments for clearing encumbrances.

9-1.2 Rules

9-1.2.1 Language

A. Electronic forms located on the WSDOT intranet site are used whenever possible and are located at:

   wwwi.wsdot.wa.gov/design/realestateservices/acquisitionforms.htm

B. Instruments for which there is no electronic model are custom prepared by the Region Real Estate Services Manager (RESM) on a case-by-case basis in compliance with the requirements of this chapter and in coordination with the Acquisition and Title Section Manager and may employ a preprinted, standard conveyance, affidavit, or other form provided by or acceptable to the title company issuing the Preliminary Commitment (PC). The RESM may accept a conveyance in the format or form prepared/ required by another agency or major corporate body. All non-electronic model forms require pre-approval by the Acquisition and Title Section Manager and the Attorney General's Office prior to execution.

9-1.2.2 Composition

9-1.2.2.1 Online Forms

A. All alterations made at the time of signing must be initialed by the grantor.

B. If sheets are appended, they are prepared in accordance with Sections 9-1.2.2.2 and 9-16.

9-1.2.2.2 Custom Forms

A. **Paper** – White bond, 8½″ x 11″ size. Only one side of each sheet is used (reverse blank).

B. **Typed** – Except for the description, the instrument is double-spaced. Acceptable instruments are error-free. All revisions following completion of the form will require that the grantor(s) initial them as being acceptable.

C. **Margins** – Except for the legal description, first page margins are 1 inch on each side and bottom and 3 inches at the top, thereafter one inch at all margins (see recording standards, Chapter 65.04 RCW).

D. **Descriptions** – The legal description is typed, single-spaced, and must meet recording standards.

E. **Page Numbering** – Each sheet including acknowledgments and exhibits is numbered, centered at the bottom of each sheet, showing both the page number and the total number of pages of the instrument, e.g., "Page 1 of 1 Page," "Page 2 of 4 Pages."

F. Acquisition documents are prepared so that the grantee is the State of Washington, acting by and through its Department of Transportation.

G. All custom forms require the approval of an Assistant Attorney General.

9-1.2.3 Parcel Identification

The applicable parcel number(s) is (are) inserted on the lower right-hand corner of each sheet of an instrument, e.g., "Parcel No. 1-12345."

9-2 Elements (Paragraphs)

Unless otherwise specified and/or illustrated in this chapter, the elements of an instrument include all of the following:

A. Document Title (see Section 9-3).

B. Federal Aid Project Number (FA No.) (see Section 9-4).

C. Recording Block (see Section 9-5).

D. Project Number and Plan Title (see Section 9-6).

E. Party Clause (see Section 9-7).

F. Consideration (see Section 9-8).

G. Conveyance Clause (see Section 9-9).

H. Property Description (see Section 9-10).

I. Miscellaneous Clauses (see Section 9-11).

J. Delivery Clause (see Section 9-12).

K. Instrument Date (see Section 9-13).

L. Execution (see Section 9-14).

M. Acknowledgment (see Section 9-15).

N. Attachments/Corollary Documents (see Section 9-16).

O. Acceptance and Approval (see Section 9-17).

9-3 Document Title

A. The title of the instrument is a clue to the function the instrument performs, e.g., warranty deed, lease, agreement.

B. The specific function of an easement, permit lease, or option is recited in the granting clause (see Section 9-9), e.g., Easement for Haul Road, Permit to Install Irrigation Facility, Lease for Borrow Site, Option to Purchase Lands.

9-4 Federal Aid Project Number

If federal participation is involved, the Federal Aid Project Number (FA No.) is inserted at the lower right-hand corner of the first page of the document above the parcel number. When a project on a federal aid route does not involve federal participation, the FA route and section are inserted and followed by a blank space enclosed by parenthesis, e.g., RF-037-2( ). When federal participation is not expected on a sundry site, the FA number is omitted.

9-5 Recording Block

A. Using the electronic version of the form, complete the top left-hand side of the document as prompted. This will include name and address to whom the instrument will be returned, title of instrument to be recorded, reference numbers (auditor file number) of affiliated document, names of the grantor(s) and grantee(s) including reference (document page number) to where the complete names are located, if applicable, abbreviated legal description of the property and reference (documents page number) to were the complete description can be found, assessor's tax parcel, or account number. See RCW 65.04.045.

B. The rectangular space between the above entries is reserved for the county auditor to enter the recording date and other recording information.

9-6 Project Number and Plan Title

The official project number (see Chapter 3) for which real property or property rights are being acquired is inserted at the very bottom right of every instrument to the state immediately below the Federal Aid Project Number with the parcel number directly below.

9-7 Party Clause

9-7.1 General

The Party Clause identifies the parties who are making the conveyance. They are usually (but not necessarily) identified as "grantors" in deeds, easements, and permits, as "lessors" in leases, etc. The name(s) of the "grantor(s)" are generally shown so as to agree with the name(s) of such person(s) as they acquired title to the property being conveyed.

The Party Clause, e.g.,

> "The Grantors, John Doe and Jane Doe, husband and wife . . . ."
>
> also answers or resolves questions of the grantor's (1) identity, (2) marital status, (3) relationship between persons, and (4) the estate or interest held by the grantors.

9-7.2 Identity – Different Names

If the grantor's correct name is questioned in the Preliminary Commitment (PC) or if the Property Acquisition Agent (PAS) finds the PC to be inaccurate as to identity, the party clause is used in the state's instrument to show the correct name of the grantor.

A. If the identity as vested in the PC was correct and the identity of alternate similar names is questioned and found to be the same person, the party clause is used to clarify the identity. The correct name appears first, followed by the alternate names as follows:

   1. " . . . John Doe, (as shown in the PC or vesting deed) also appearing of record as J. Doe . . .(being the alternate name)."

B. If the grantor's current identity is more correctly or accurately established than by the vested name in the PC, the following examples are adapted:

   1. " . . . John Olson, who acquired title as John Olsen . . . ."
   2. " . . . John B. Doe, who acquired title as John R. Doe . . . ."
   3. " . . .Mary Doe, who acquired title as Mary Jones . . . ."

      Note: This form is for a woman who has married since acquiring title.

   4. " . . .Charles Martin, who acquired title as Carlos Martino . . . ."
   5. " . . . John Doe Company, which acquired title as John Doe Co., ..."
   6. " . . . John Doe, Inc., which acquired title as John Doe and Sons . . . ."

9-7.3 Marital Status

A. Because Washington is a community property state, any deed taken by either spouse of a marital community (except as provided in 9-7.3.B) becomes automatically the community property of both, and the interests of spouses (and former spouse(s)) must be acquired or eliminated. Hence, considerable importance is attached to the correctness of a statement regarding marital status in the Party Clause. The vesting in the PC is the starting point, for the title company ensures the state that the named vestee can convey good title, but if the marital status of the vestee is questioned by a comment or encumbrance or has changed since he/she acquired title, an investigation of the marital facts is required. The object is to arrive at a Party Clause which shows the currently correct names as grantors on the state's instrument (see Section 9-7.2) followed, if necessary, by (1) a statement of the currently correct marital status, and (2) if applicable, a statement clarifying the interest held.

B. A person who acquires land while single, or as a gift or an inheritance even while married, owns the land as his/her separate estate, and the joiner of the spouse is not required, although it is good practice to secure the spouse's signature as a precautionary measure. If there should be any resistance by the spouse to signing, such signing may be waived but only after ascertaining that the couple has not entered into a Community Property Agreement. If a Community Property Agreement has been

executed, but not recorded in the county in which the required real property lies, a copy should be obtained and the matter referred to the Region RESM for instructions. If a Community Property Agreement has been recorded in the county in which the required real property lies, it will (usually) be reported in the PC and both signatures will be required.

C. The following are some of the historical and not often used terms involved in marital status questions and their precise meanings. Whenever possible, the proper term should be used to identify the grantor in our right of way deeds.

1. **Widow (Widower)** – A woman (man) whose husband (wife) had died.

2. **Single or Unmarried** – This term includes all persons who are not now married (bachelor, spinster, widow, widower, divorced).

D. On a great many of the titles encountered when acquiring right of way, no question of the marital status of the vestee will be raised by the title company in the PC. A simple investigation by the PAS aimed at verifying the marital status shown in the PC will permit him (assuming the fact of verification) to phrase the Party Clause in the exact same language as the vesting. (The facts elicited in his investigation are reported in the Diary of Right of Way Activities – RES-301.)

E. Where the title company does raise a question concerning marital status (often through the use of the word "presumptively") or where the investigation (9-7.3.D) does not verify the marital status given in the PC, the question may be resolved by considering the following typical situations:

1. If the PC reads "John Jones, presumptively subject to the community interest of his wife, if married on or after January 16, 1936, date of acquiring title," this means that the deed to the vestee reads merely "John Jones" and does not disclose whether or not John is married.

   The parties should be questioned as to their marriage date, and if it is found that they were husband and wife on or after January 16, 1936, this fact should be incorporated in the party clause of the deed. It is not sufficient merely to have his present wife sign the deed. The following is a good form to use:

   "John Jones and Mary Jones, husband and wife on January 16, 1936, and at all times since."

   If questioning discloses that John was single on the above date, the party clause should appear as follows:

   "John Jones, a single man on January 16, 1936, and Mary Jones, his wife."

If it is found that on said date, John was married to someone other than Mary, then the interest of that former spouse must be secured, or a determination made that it has passed properly to John by deed, court order, or otherwise. The existence of a former spouse is the most dangerous possibility of this type of vesting and is the condition against which every precaution should be taken.

2. If the PC reads "John Jones and Mary Jones, presumptively as community property," this means that the vesting deed ran to John Jones and Mary Jones but failed to identify them as husband and wife. (They might be brother and sister, for instance, and each of their interests would be presumptively subject to the community interest of his or her respective spouse.)

   In this case, if it is found that they are married, it is sufficient to take a deed reciting that they are husband and wife.

   If it is found that they are not married to each other, the PAS makes an investigation to determine the marital status of each person, reporting the facts found in his Diary of Right of Way Activities (Form RES-301) and refers the matter to the Region RESM (or his designee) for instructions.

3. Some title companies also show title as being in "John Jones, husband of Mary Jones, presumptively as community property," this means that the deed ran to John Jones, without disclosure of his marital status, but the title company knows from its own records that he was the husband of Mary on the date of acquiring title.

   In this case, it is sufficient to accept a deed signed by John and Mary, identifying them as husband and wife in the party clause.

4. If the PC shows the title to be in Mary Jones, a widow, or Mary Jones, a spinster, and you find in contacting her that she has remarried or married, the following is the proper form for the party clause:

   "Mary Schwartz, who acquired title as Mary Jones, a widow, (or a spinster), and Albert Schwartz, her husband." (Technically the husband need not join in the deed, since the property is the separate estate of Mary. But see 9-7.3.B for the possible effect of a Community Property Agreement).

5. Combinations and/or variations of the above examples should be referred to the Region RESM for instructions. Also, see Chapter 8 with respect to probate in the event of the death of a vestee.

6. If title was acquired when the party was single and has been single at all times, then the proper recital is . . . , a single person now and at all times since acquiring title.

9-7.4 Corporate Names

9-7.4.1 Private Corporations (also see Section 9-14.3.1)

The name of the corporation, using the exact words as filed in the office of the Secretary of State in Olympia, is shown in instruments to the state. Any variation is authorized by the Region RESM and explained in the Encumbrance Report on the Right of Way Acquisition Transmittal. (But see Section 9-7.2.B if PC vesting varies from name as recorded in office of Secretary of State.)

9-7.4.2 Governmental Agencies (also see Local Public Bodies Section 9-14.3.2)

Acquisition from political subdivisions of the state of Washington (cities, counties, etc.) should be headed as shown in the title report, e.g., "_____ County, a political subdivision of the State of Washington ," "City of _____, a municipal corporation of the State of Washington ."

9-7.5 Estate or Interest

When legally empowered to execute an instrument as a fiduciary, the party clause includes the name and the capacity of the party who executes the instrument for the vested owner. A fiduciary's name appears exactly as shown in the PC and/or the court appointment. Although an attorney in fact has fiduciary responsibilities, he has no estate or interest in the property to be conveyed; hence, the name of the principal only appears in the party clause. (See Section 9-14.2.3 as to execution by an attorney in fact.)

9-7.6 Trustee (also see Execution Section 9-14.2.3)

A. The title company may require proof of the trustee's authority in the form of copies of the trust documents and any amendments thereto. Check the PC. The PAS, obtains a copy of the trust agreement and any amendments. At times owners are reluctant to provide copies of these documents. At a minimum, the PAS will review the trust documents, puts notes in the diary confirming the name of the trust, name of the trustee, powers of the trustee, date of the trust, and confirms with the parties that the trustee identified in the documents is the current trustee.

B. If a trustee is executing the instrument only as a fiduciary, the following examples are adapted:

   1. " . . . Richard Roe as Trustee for the John Doe Trust, dated . . . ."

2. " . . . Richard Roe as Trustee under the will of John Doe, deceased . . . ."

3. " . . . The Grand National Bank as Trustee for the John Doe Trust, dated . . . ."

C. If a Trustee is executing the instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. " . . . Richard Roe, a single man, as his separate estate (etc., see Section 9-6.3) and as Trustee for the John Doe Trust, dated . . . ."

9-7.7 Executor/Administrator (also see Executor/Personal Representative Section 9-14.2.3)

A. If an executor/administrator (frequently referred to as personal representative (PR)) is executing an instrument only as a fiduciary, the following example is adapted:

1. " . . . Richard Roe as Executor (Administrator, PR) of the Estate of John Doe, deceased . . . ."

B. If an Executor/Administrator is to execute an instrument for himself as a vested owner and as a fiduciary, the following example is adapted:

1. " . . . Jane Doe, individually and as Executrix (Administrator, PR) of the Estate of John Doe, deceased . . . ."

9-7.8 Guardian (also see Section 9-14.2.3)

A. The contents of this topic is limited. Consult with the Region Title Examiner and the PC for guidance.

B. A Guardian Ad Litem is appointed by the court and acts as an officer of the court, the following example is adapted:

1. " . . . Jane Doe as Guardian of the Estate of John Doe, a minor (an incompetent, etc.) . . . ."

9-7.9 Tenants in Common and Joint Tenants (also see Execution Section 9-7.3)

If the PC shows title vested in the parties as Tenants in Common (or as Joint Tenants), the following example is adapted:

1. " . . . John Doe and Ruth Roe, as Tenants in Common . . . ."

2. " . . . John Doe and Jane Doe, husband and wife, as Joint Tenants . . . ."

3. ***Note:*** Tenancy by the entirety is not authorized by the laws of Washington State (see RCW 11.04.071).

9-7.10 Fractional Interest

A. If the PC shows title held by two or more persons in fractional interests, the sum of such interests is verified by the PAS to equal 100 percent and the parties are joined on the instrument, adapting the following example:

   1. " . . . John Doe, Jane Doe, Ruth Roe, and Jim Olsen, as their interests may appear . . . ."

9-7.11 Partnerships

A. The title company may require proof of the partners authority to execute documents. Check the PC. The PAS obtains a copy of the partnership agreement and amendments, if any. At a minimum, the PAS will review the partnership documents and put notes in the diary confirming the name of the partnership and the name of the authorized partner(s).

B. If the PC shows title held in name of a firm which proves to be a partnership:

   1. If a Limited Partnership and evidence is available that only some of partners are authorized to convey the real property of the firm, the following is adapted:

      a. " . . . (FIRM NAME), a Limited Partnership . . . ." (See Section 9-14.4 for execution.)

   2. If a Limited or General Partnership and no evidence is available as to authority to convey, the following may be adapted after consulting with the Region Title Examiner for guidance:

      a. " . . . John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife, (continuing through all the partners and their spouses), being all the partners of (FIRM NAME), a (Limited) Partnership . . . ."

C. If the PC shows title held by one or more persons who prove to be all or part of a partnership which in fact is doing business under a firm name, the following is adapted:

   1. " . . . John Doe and Jane Doe, his wife; Richard Roe and Ruth Roe, his wife; (continuing through all the partners and their spouses), partners doing business as (FIRM NAME) . . . ."

9-7.12 Limited Liability Companies *(see Section 9-14.5)*

A. The name of the Limited Liability Company aka (LLC.) is as it is filed in the office of the Secretary of State in Olympia and as shown in the written agreement. The agreement details the organization of the LLC. including provisions for management. For detailed information, see Chapter 25.15 RCW.

B. The title company may require proof of the members authority to execute documents. Check the PC. The PAS obtains a copy of the operating agreement and amendments, if any. At a minimum, the PAS will review the documents and put notes in the diary confirming the name of the Limited Liability Company and the name of the authorized managing member or members.

9-8 Consideration

9-8.1 Lump Sum

A. If no money is to be paid, the words "the sum of" and "Dollars" on the electronic forms are stricken. Alternate language used is:

   1. "Dedication, Donation, Special Benefits." Consult with the Region Title Examiner to determine the correct words based upon the circumstances and what additional information may be required. The phrase "mutual benefits" in and of itself is not used, state the actual benefits.

B. If money is to be paid for the purchase of property or a real property interest in the lands to be acquired, the following language is used in lieu of reciting the full amount of the just compensation for the parcel:

   1. " . . . Ten and No/100 ($10.00) Dollars and other valuable considerations . . . ."

      Note: The word "Dollars" is printed on many forms at the end of a line. Hence, the parenthetical numerical amount is written in before the word "Dollars"; it normally should follow the word "Dollars" as in 9-8.1.C. "Other valuable considerations" includes construction items and the like. If actual money paid is less than $10, the dollar section in the above example should be changed to reflect the specific amount paid.

C. If money is to be paid in relation to an agreement or for a release of an interest, e.g., damages, judgment, or lease, in a secondary Real Property Voucher, the specific amount of the consideration is shown in words and numerals:

   1. " . . . ONE THOUSAND FIVE HUNDRED AND NO/100 Dollars ($1,500.00) . . ."

9-8.2 Rate

If money is to be paid periodically as in a lease, the amounts to be paid and the frequency of payments are included, adapting suitable language based on the following examples:

A. " . . . Ten and No/100 Dollars ($10.00) per month . . . ."

B. " . . . Ten and No/100 Dollars ($10.00) per month together with Two Cents ($0.02) per cubic yard of materials removed by the state of Washington and/or its assigns during each such monthly period . . . ."

C. " . . . On a royalty basis at the rate of $_____ per cubic yard of material removed by the state as measured by a cross section survey of the excavated area at the completion of each contract, said royalties to be paid promptly at the completion of each such contract . . . ."

9-9 Instrument Types

9-9.1 Deeds

A. To be effective as a deed there must be words manifesting an intention to pass title. The words of conveyance in the statutory forms are as follows:

Warranty Deed: conveys and warrants RCW 64.04.030

Quitclaim Deed: conveys and quit claims RCW 64.04.050

B. The conveyance clause states the exact terms and conditions of the conveyance. The complexity of the language varies with the function of the conveyance.

C. A deed normally contains a simple statement to "convey and warrant," (Warranty Deed – RES-302) or "convey and quitclaim" (Quitclaim Deed – RES-306).

D. In an "Access Rights Only" deed (RES-305), the complete conveyance clause also becomes the access clause.

E. The conveying language is followed by the name of the grantee ("the State of Washington , Department of Transportation") and nature of the interest conveyed, e.g., "the following described real property" (in a deed).

9-9.2 Easement

The Easement form (RES-324), contains the basic easement language (convey and grant) into which is inserted the language that describes only the interest which the state acquires, for example: " . . . construction and maintenance of a Channel Change Facility of the Cedar River . . . ." (see Chapter 6).

9-9.3 Right of Entry, Permit, Temporary Easement

These documents are used to obtain the temporary use of a property for a specific purpose. The document needs to clearly state the purpose and the termination date.

Condemnation. Temporary easement or permit areas to be acquired by condemnation must be shown on the official right of way plan.

9-9.3.1 Right of Entry

There is not an electronic form for a right of entry. The Region RESM or Region Title Examiner can provide samples and assist with preparation (see Chapter 6).

9-9.3.2 Permit

The Permit form (RES-326) contains the basic language into which is inserted the specific language describing the reason for the permit and the expiration date of the permit (see Chapter 6).

9-9.3.3 Temporary Easement

The Temporary Easement form (RES-325) contains basic language describing the reason for the temporary easement and the expiration date of the temporary easement. The PAS must state the purpose and expiration date (see Chapter 6).

9-9.4 Acquisition Lease

A. A lease obtains specific rights of tenancy. The termination of use of the property and the rights and privileges of the lessee are specified.

B. The Acquisition Lease form (RES-329) contains the basic lease language (“grants”), into which is inserted the language that establishes rights and privileges of the lessee and the termination.

   1. See Section 9-7 for rental rate clauses (consideration).

   2. The lessee’s rights and privileges are described, adapting language such as the following:

      a. “ . . . the right, permit, license, and lease to use and occupy (for the purpose of) STOCKPILING OF ROAD MATERIAL including depositing and storing crushed stone and other highway materials as the exclusive property of the state . . . .”

b. " . . . the right, permit, license, and lease to use and occupy (for the purpose of) the REMOVAL OF EARTH MATERIALS, including excavation and removal of rock, gravel, sand, or earth, from any portion of said land; storing materials and operating all necessary machinery and equipment thereon . . . ."

3. Legal description of the land subject to the lease is required.

4. **Termination** – The agreement shall terminate and all rights of the lessee herein under shall cease and the lessee shall waive any right or claim to reimbursement, compensation, or remunerations of any kind and shall quietly and peaceable deliver possession of the premises to the lessor:

   a. At the expiration of the term of the Agreement.

   b. Upon failure to respond to 90-day written notice from the lessor to lessee claiming violation of any of the terms of the agreement.

   c. Upon 90 days written notice from the lessee to lessor stating lessee's interest to discontinue occupancy of the premises.

9-9.5 Option

Option forms RES-327 (quarry or pit) or RES-328 (other lands) is a legal agreement between a future buyer (optionee) and seller (optionor) to contract to buy and sell real estate within a certain amount of time at a certain price with certain terms. However, the optionee has no obligation to follow through and buy it. All options are transmitted to headquarters and approved by the Headquarter's RESM.

9-9.6 Consent to Change of Grade

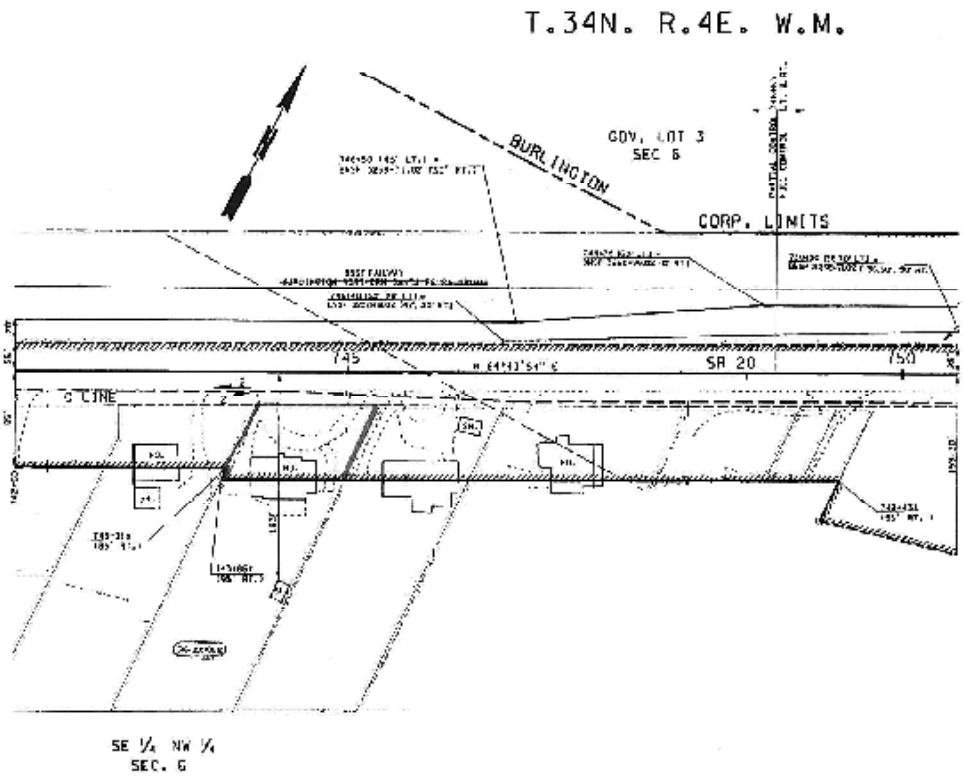
The Consent to Change of Grade form (RES-323) is used only in those cases where the change of grade is to be accomplished entirely within the existing right of way.

9-10 Property Description

Composing legal descriptions can present challenges. Consult with Headquarters Acquisition and Title staff for guidance.

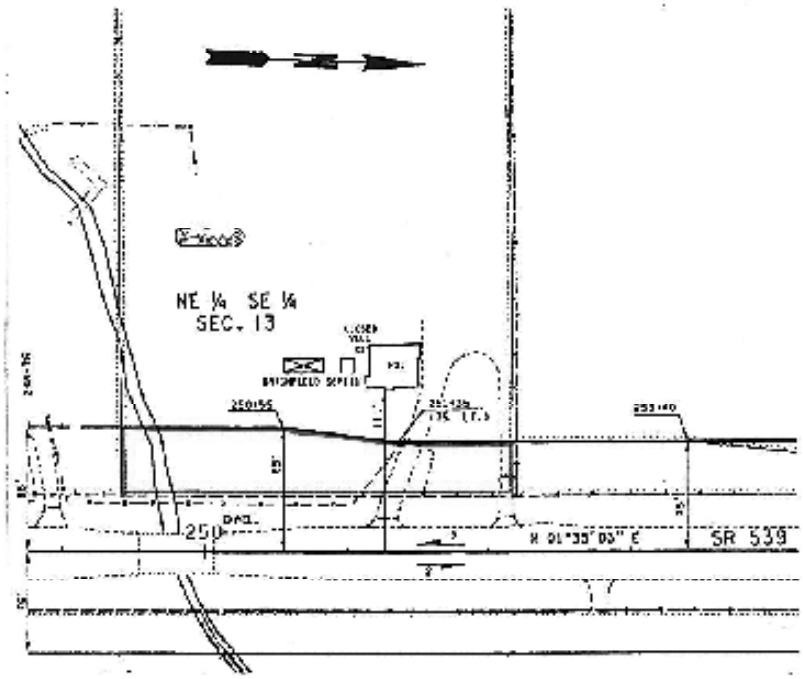
9-10.1 Sample Descriptions

Line Description That Can Be Used on Multiple Acquisition Parcels



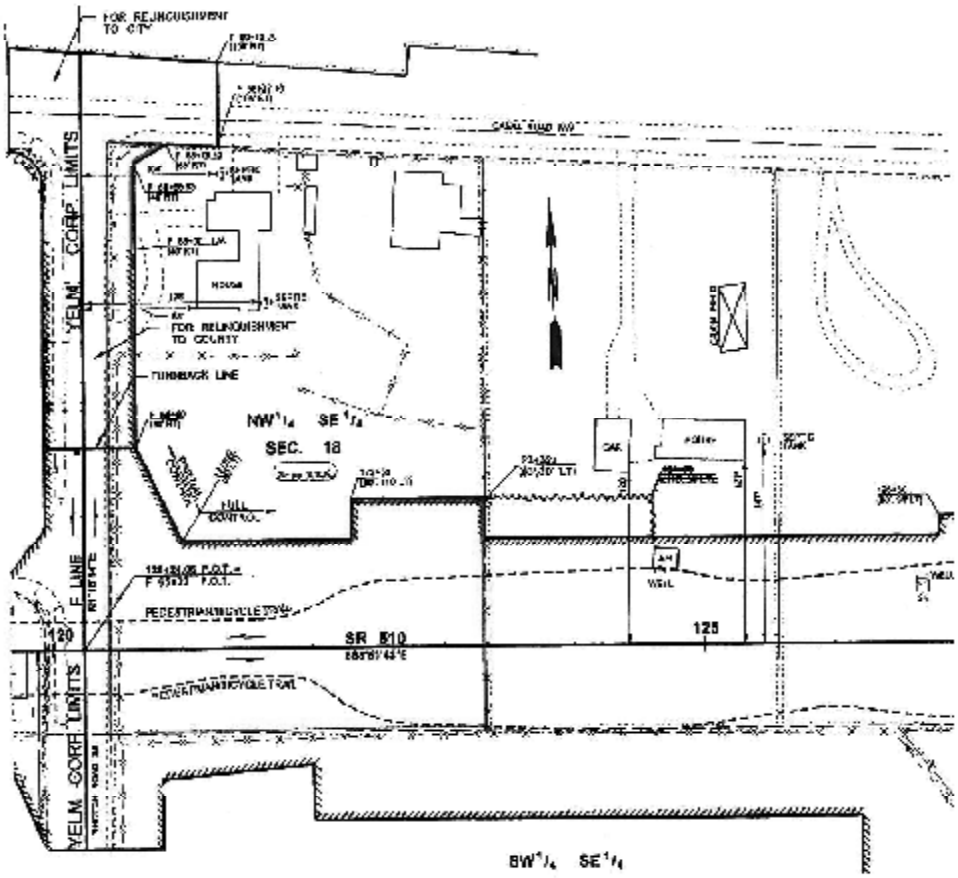
All that portion of the hereinafter described PARCEL “A” lying northwesterly of a line drawn parallel with and 95 feet southeasterly of, when measured at right angles to, the SR 20 line survey of SR 20, Fredonia to Pulver Rd. Vic.

Simple Line Acquisition Description



All that portion of the hereinafter described Parcel "A" lying easterly of a line beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) 248+75 on the SR 539 line survey of SR 539, Horton Road Vic. to Ten Mile Road Vic. and 85 feet westerly therefrom; thence northerly, parallel with said line survey, to a point opposite HES 250+55 thereon; thence northeasterly to a point opposite HES 251+35 on said line survey and 75 feet westerly therefrom; thence northerly, parallel with said line survey, to a point opposite HES 253+40 thereon and the end of this line description.

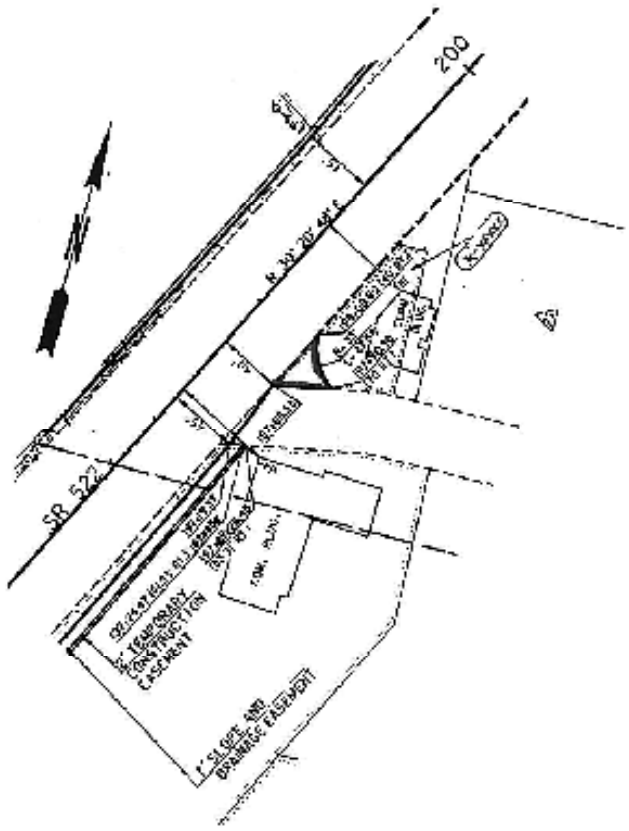
Complex Line Description



All that portion of the hereinafter described Parcel "A" lying Westerly and Southerly of a line described as:

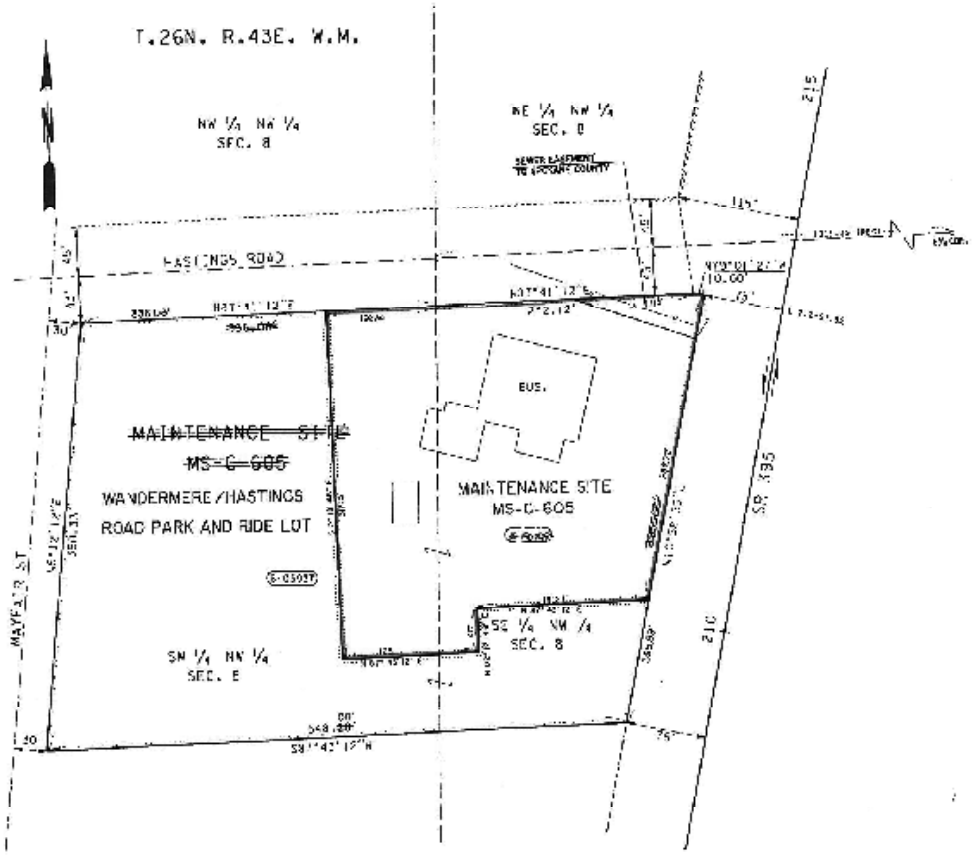
Beginning at a point opposite Highway Engineer's Station (hereinafter referred to as HES) F 69+40.29 on the F line survey of SR 510, Mud Run Rd. Vicinity to SR 507 Vicinity and 105 feet Easterly therefrom; thence Southerly, parallel with said line survey, to a point opposite HES F 68+77.46 thereon; thence Westerly to a point opposite HES F 68+79.42 on said line survey and 65 feet Easterly therefrom; thence Southwesterly to a point opposite HES F 68+65.63 on said line survey and 40 feet Easterly therefrom; thence Southerly, parallel with said line survey, to a point opposite HES F 66+50 thereon; thence Southeasterly to a point opposite HES 121+00 on the SR 510 line survey of said highway and 80 feet Northerly therefrom; thence Easterly, parallel with said SR 510 line survey, to a point opposite HES 122+30 thereon; thence Northerly to a point opposite said HES and 110 feet Northerly therefrom; thence Easterly, parallel with said SR 510 line survey, to a point opposite HES 124+60 thereon and the terminus of said line description.

Perimeter Acquisition Description and Curve Description



All that portion of the hereinafter described PARCEL "A" lying within a tract of land beginning at a point opposite Highway Engineer's Station (herein after referred to as HES) 197+66.53 on the SR 522 line survey of SR 522, N.E. 145th St. to N.E. 165th St. and 40 feet southeasterly therefrom; thence northeasterly to a point opposite HES 197+90.55 on said line survey and 70 feet southeasterly therefrom; thence northwesterly on a curve to the right having a radius of 33 feet, an arc distance of 37.58 feet to a point opposite HES 198+09.60 on said line survey and 40 feet southeasterly therefrom; thence southwesterly parallel with said line survey to the point of beginning.

Sundry Site Acquisition Description (Metes & Bounds)



That portion of Section 8, Township 26 North, Range 43 E.W.M. described as follows:

Beginning at a point opposite Highway Engineer's Station L212+97.52 on the L line survey of Spokane County Sundry Site Plans, Maintenance Site MS-C-605 Wandermere/Hastings Park and Ride Lot and 75 feet Northwesterly therefrom; thence North 79º01′27″ West a distance of 10.00 feet; thence South 87º41′12″ West a distance of 242.12 feet; thence continuing South 87º41′12″ West a distance of 102.61 feet; thence South 2º18′48″ East a distance of 317.15 feet; thence North 87º43′12″ East a distance of 125 feet; thence North 2º16′48" East a distance of 40 feet; thence North 87º43′12″ East a distance of 161.27 feet; thence North 10º58′33″ East a distance of 282.72 feet, more or less, to the point of beginning.

9-11 Miscellaneous Clauses

9-11.1 Limited Access

9-11.1.1 Acquisition of Access Rights Only

A. For acquisition from a fee owner, the appropriate language is included in the conveyance clause on the electronic forms in which "Access Rights Only" are being conveyed. If there are exceptions to full control of access, the appropriate exception clause is also inserted as explained in Section 9-11.1.5 et seq.

B. For acquisition from a benefitted parcel (dominant estate), the appropriate form is used for restricting access use (RES-356). If there are exceptions to full restriction of access, the exception clause 9-11-1.5.3.C.3 is inserted.

9-11.1.2 Acquisition of Land and Access Rights

A. For a fee owner the access control clause follows the property description clause in a conveyance of a partial acquisition adapting the following:

> "Also, the grantors herein convey and grant (relinquish) to the State of Washington all rights of ingress and egress (including all existing, future or potential easements of access, light, view and air) to, from and between (plan title) and the remainder of said (Parcel A). It is expressly intended that these easements, covenants, burdens and restrictions shall run with the land and shall forever bind the grantors, their heirs, successors and assigns."

B. For a benefitted parcel owner the restriction of access clause is as follows:

> "Also the grantors herein convey to the State of Washington all their easement rights to use the access approach belonging to the hereinafter described Parcel (use servient estate description) for ingress and egress to, from and between SR and the remainder of said Parcel (dominant estate)."

Note: If an access reservation is provided, continue with the appropriate clause in Section 9-11.1.5 et seq.

9-11.1.3 Release of Lessee's Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following:

> "Also, said lessee hereby releases from the effect of said lease, all rights of ingress and egress (etc., as in Section 9-11.1.2) . . . and the remainder of the real property described in said (lease) (Parcel __)."

9-11.1.4 Release of Mortgagee's or Beneficiary's (Deed of Trust) Interest

The access control clause agrees with the language of the conveyance from the owner, adapting the following language in the satisfaction or request for reconveyance:

> "Also, said (mortgagee/trustee) hereby releases from the effect of said (mortgage/deed of trust) all rights of ingress and egress (etc., as in Section 9-11.1.2) and the remainder of the real property described in said (mortgage/deed of trust)."

9-11.1.5 Access Reservation

If the access control is modified by any "Access Note" or other feature appearing on the approved plan, such feature is specified in the instrument of conveyance or release by adding to the "Access Control Clause" (see Section 9-11.1.2 et seq.) an "Access Reservation Clause" adapted from one of the following clauses.

Composing proper language for a road approach reservation can present challenges. In instances where the following clauses do not meet unique requirements, work with the Headquarters RES Acquisition and Title staff.

The language of such clause in a partial release of lease, substitutes the words "said lessee" in place of the words "grantor" or "grantor herein." Likewise, the word "mortgagee" is substituted in a partial release of mortgage and the word "trustee" is substituted in a partial reconveyance of a deed of trust.

9-11.1.5.1 By Highway Connection

For access specifically permitted by way of a highway connecting with an access controlled facility:

> " . . . EXCEPT that the (grantors, lessees, mortgagees, trustee(s) herein reserve(s) for (himself) (his heirs) (its) successors or assigns, the right of reasonable access to the "_____" Line connection of said Highway (_____erly of HES _____ + _____ on the "_____" Line survey of said highway)." Continue with the text in Sections 9-11.1.5.3.1, 9-11.1.5.3.2, or 9-11.6 as appropriate.

9-11.1.5.2 By Frontage Service Road

A. State to Construct – Now

> " . . ., EXCEPT that as a part of the consideration of this transaction, the state agrees to construct on the right of way a frontage service road along the (easterly) side of said highway, and to which frontage service

road only, the grantors, their heirs, successors or assigns reserve a right of reasonable access." Continue with the text in Sections 9-11.1.5.3.1, 9-11.1.5.3.2, or 9-11.6 as appropriate.

B. State to Construct – Future

" . . ., EXCEPT that as a part of the consideration for this transaction, the state agrees to construct on its right of way at a future date, a FRONTAGE SERVICE ROAD along the (easterly) side of said highway, it being understood and agreed that the grantors herein, their heirs, successors and assigns reserve a temporary right of reasonable access . . . ." Continue with Sections 9-11.1.5.3.B.1 or B.2 as required.

1. Direct Access to Highway. " . . . directly to said highway until such time as said FRONTAGE SERVICE ROAD is actually constructed at which time all such temporary rights of direct access to the highway shall cease and the rights shall then be limited to the right of reasonable access to the FRONTAGE SERVICE ROAD." (Insert description of location and/or use restrictions of temporary direct access as appropriate.) Continue with the text in Sections 9-11.1.5.3.1, 9-11.1.5.3.2, or 9-11.6 as appropriate.

2. Other Temporary Access. When temporary access other than via a direct route to the highway is to be provided, such as allowing temporary access only to a specific other public road that is available or can be made available, insert the details as to the type, location, and any restriction of the access as stated in the design specifications. Continue with the text in Sections 9-11.1.5.3.1, 9-11.1.5.3.2, or 9-11.6 as appropriate.

9-11.1.5.3 By Road Approach

A. Type "A" (Residential)

"… EXCEPT that the state shall construct on its right of way a Type "A" off and on approach, not to exceed 30 feet in width, for the sole purpose of serving a single family residence, on the _____ side, at or near Highway Engineer's Station _____, as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

B. Type "B" (Farm)

1. One Side

"… EXCEPT that the state shall construct on its right of way a Type "B" off and on approach, not to exceed 50 feet in width, for those uses necessary to the normal operation of a farm but not for retail marketing on the _____ side at or near Highway Engineer's Station _____, as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach, only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

2. Each Side

"…EXCEPT that the state shall construct on its right of way a Type "B" off and on approach, not to exceed 50 feet in width for those uses necessary to the normal operation of a farm but not for retail marketing, on each side of said highway, at or near Highway Engineer's Station _____, as shown on Sheet _____of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approaches the grantors, their heirs, successors and assigns, reserve the right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

a. Multiple Approaches – Controlled Movement

Used if the grantor has reserved road approaches on each side and traffic may not cross or make left turning movements at grade.

"…The direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

b. Temporary Grade Crossing

Used if the grantor has reserved road approaches on each side without restriction on crossing or left turning movements at grade.

"…It is understood and agreed that the state may temporarily permit the crossing of said highway at grade and free turning movements from each of said approaches. However, whenever necessary in the opinion of the Department of Transportation, all grade crossings shall cease and terminate and the direction of travel to and from each of said approaches shall be limited to the same direction as the movement of the traffic in the lane abutting said approach."

C. Type "C" (Special Use)

Used only on the instrument with the parties who are to have the right of use of such approach. The Special Use must be defined in the document, consult with Region Access or HQ Access units.

1. State to Construct

   "…EXCEPT that the state shall construct on its right of way a Type "C" off and on approach, not to exceed (_____) feet in width, for a gated approach to the grantors' well, on the _____ side, (northbound) only, at or near Highway Engineer's Station _____, as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach only, the grantors, their heirs, successors, or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

2. Owner to Construct

   "…EXCEPT that the state agrees to permit the construction on its right of way of one Type "C" off and on approach to the remainder of said Parcel "A", not to exceed (_____) feet in width, for the uses necessary to the normal operation of a farm (or whatever use is specified by the highway plan), at a point on the _____ side of said highway, between Highway Engineer's Station (_____) and Highway Engineer's Station (_____),and to which off and on approach only, the grantors, their heirs, successors or assigns reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.1.5.3.2.

3. Benefitted Parcel (Dominant Estate) State to Construct

   "…EXCEPT that the State shall construct on its right of way a Type "C" off and on approach for the remainder of Tract "X" (servient estate), not to exceed ___(insert width of easement) in width for (insert language for purpose from Type "A", "B" or "D" approaches) on the _____ side of said highway, at or near Highway Engineer's Station _____, as shown on Sheet ___ of ____ Sheets of the hereinafter mentioned map of definite location. The Grantors, as holders of an easement to cross the remainder of Tract "X", their heirs, successors or assigns, shall have the right to use this Type "C" off and on approach onto SR ___ only for such time as the easement across Tract "X" remains in effect.

4. Benefitted Parcel (Dominant Estate) [Encumbered Parcel Owner to Construct]

   "…EXCEPT that the State agrees to permit the construction on its right of way of a Type "C" off and on approach for the remainder of Tract "X" (servient tenement), not to exceed ___(insert width of easement) in width for (insert language for purpose from Type "A", "B" or "D" approaches) on the _____ side of said highway, between Highway Engineer's Station _____ and Highway Engineer's Station _____ , as shown on Sheet ___ of ____ Sheets of the hereinafter mentioned map of definite location. The Grantors, as holders of an easement to cross the remainder of Tract "X", their heirs, successors or assigns, shall have the right to use this Type "C" off and on approach onto SR ___ only for such time as the easement across Tract "X" remains in effect.

D. Type "D" (Commercial Single 50 Foot Width)

Used only where Modified Access Control has been established, and further subject to provisions of WAC 468-58-090.

"….EXCEPT that the state shall construct on its right of way a Type "D" off and on approach not to exceed 50 feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location, and to which off and on approach only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

E. Type "E" (Commercial Double 30 Foot Width)

Note: This approach is to be utilized only with approval of the HQ Access and Hearing Engineer's office.

"…EXCEPT that the state shall construct on its right of way a separated off and on approach with each opening not exceeding 30' in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations as shown on Sheet _____ of _____ Sheets of the hereinafter mentioned map of definite location and to which off and on approach only, the grantors, their heirs, successors or assigns, reserve a right of reasonable access for that purpose only." Continue with the text in Sections 9-11.1.5.3.1 and 9-11.7.

9-11.1.5.3.1 Maintenance of Road Approach

" . . ., which approach shall be maintained between the right of way line and the shoulder line of said (highway, frontage service road of said highway, highway and/or frontage service road, " " Line of said highway) by the grantors, their heirs, successors or assigns."

9-11.1.5.3.2 Construction Costs and Permits – Owner to Construct Approach

"Obtaining required permits from responsible agencies and the complete construction (and maintenance) costs of said approach shall be the sole responsibility of the grantors, their heirs, successors or assigns."

9-11.1.5.4 By Highway Structure

Used when the approved Right of Way Plan contains an "Access Note" which permits access under or over the traveled way by use of a highway structure — adapt the text of the "Access Note":

" . . ., EXCEPT that traffic movement will be permitted under the highway structures at the (insert name of bridge, etc.) between HES _____ + _____ and HES _____ + _____ as restricted clearances will permit." If appropriate, continue with the text in Sections 9-11.1.5.3.1 and 9-11.1.5.3.2.

9-11.2 Specific Details

Used in each instrument (deed, easement, temporary easement, etc.) involving a partial acquisition also can be used on other instruments as a courtesy. Specific details are not used for a description involving a total acquisition parcel or donation or dedication not shown on the right of way plan.

9-11.2.1 One Type of Acquisition

The cited language is used in instruments relating to conveyances of only one type, e.g., fee, easement, permit, lease.

When mile post information is provided and appears to be included in the plan title name at the lower right of the plan sheet, it is not referenced in the specific detail clause.

Example:

If as shown on the plan SR 82 MP 32.48 to MP 33.59, East Yakima Ave. Interchange.

The correct plan title is SR 82, East Yakima Ave. Interchange.

The lands herein (described) (condemned) contain an area of (xxx square feet or x.x acres), more or less, the specific details concerning all of which are to

be found on sheet xx of that certain plan entitled SR (plan title), now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval xxxx,xx, xxxx, revised xxxxx,xx, xxxx.

9-11.2.2 Multiple Types of Acquisition

The cited language is used in instruments relating to conveyances of combinations of fee, easement, permit, etc., most frequently used with negotiated possession and use agreements.

> "The lands herein described in fee contain an area of (_____ acres, _____ square feet), more or less, and herein described in (easement, permit) contain an area of (_____ acres, _____ square feet) more or less, the specific details concerning all of which... (see Section 9-11.2.1)".

9-11.2.3 Release of Easement

The cited language is used in instruments releasing the servient estate (encumbered parcel) from the easement.

> "Herein conveyed is the extinguishment of that portion of the above described easement containing an area of (xxx square feet or xxx acres), more or less the specific details all of which are to be found on sheet xx of that certain plan entitled SR (plan title), now of record and on file in the office of the Secretary of Transportation at Olympia, and bearing date of approval xxxx, xx,xxxx, revised xxxx, xx, xxxx.

9-11.3 Payment Authorization

Used in instruments where there are multiple signatories and all the parties agree to the state making payment to one of their members. Commonly known as a "pay one clause."

9-11.3.1 By Grantors to One Grantor

> "The undersigned grantors hereby authorize and instruct the State of Washington , Department of Transportation to pay the entire consideration to _____, and direct that the state voucher in payment thereof shall be executed only by said _____."

9-11.3.2 By Mortgagee to Mortgagor/Beneficiary to Grantor

Used on the (Partial Release of Mortgage/Request for Partial Reconveyance of Deed of Trust) to authorize payment to the grantor (borrower).

> "The undersigned herein consents to the payment of any consideration for the lands being herein released directly to the (mortgagor/grantor), his or her heirs, successors, or assigns."

9-11.4 Improvement Straddling Right of Way Line

Used in each case in which improvements straddle the right of way line. All improvements within the acquisition area are automatically acquired with the land as "real property." Owners (or others) do not "retain" or purchase improvements to be removed or salvaged but may purchase them as personal property by purchasing salvage rights. Salvage rights (sales of personalty) are transacted and documented in a separate Fixtures and Improvements Agreement (RES-335).

> "It is understood and agreed that the (specify type of improvement(s)) located partially upon the lands herein conveyed and partially upon the grantor's remaining lands is (are) conveyed herein in its (their) entirety to the State of Washington , its agents or assigns."
>
> "The grantor herein further grants to the State of Washington , or its agents, the right to enter upon the grantor's remaining lands where necessary to (construct said approach, remove said improvement, remove said crop, remove said timber, etc.)."

9-11.5 Timber (Crop) Removal

Use if timber (crops) are to be removed by the grantor:

> "The grantor herein reserves the right to remove (all hay, the sugar beet crop, all standing or down timber) located (insert right of way centerline or other legal description of the area where timber/crop removal is permitted) at any time until (insert exact date); however, all (timber, crops) yet remaining on said lands after said date shall become the property of the State of Washington and all rights of the grantor to said (timber, crops) shall then cease and terminate."

9-11.6 Road Approaches – Nonlimited Access

Access to nonlimited access state highways is managed under the provisions of Chapter 47.50 RCW.

All new or altered road approaches must be documented by permit. Region Real Estate Services staff will assist those assigned to granting permits. We will attempt to obtain signatures on all permits on any project even though there may not be an acquisition from that particular property owner. If any owner refuses to sign, the PAS should so note on the permit, leave a copy with the owner, and return the original to the region. A copy of all road approach permits must be included in your acquisition files.

For nonlimited access within an incorporated city, WSDOT has no jurisdiction to grant road approach permits.

A record of authorized road approaches will be maintained in the State Access and Hearings Engineer's Office in Olympia. The information in this computer file will be input and updated in each region office responsible for issuing the permits.

Acquisition documents will not make reference to any road approach or access rights. All information about the approach type, location, maintenance, right of entry, etc., will be in the permit. Region Real Estate Services will coordinate closely with those issuing the permits to assure the appropriate language is included in each one.

If the owner requests any additional approaches, the PAS should explain the procedure established in the statute and provide whatever help is appropriate for the owner to apply. If at all possible, any request for additional or modified access should be separated from our acquisition activities.

If the owner insists on a document assuring them the state will reconstruct any existing approach, we can provide a letter from the authorized region personnel but the letter should not contain any reference to a type or location.

The construction memorandum regarding road approaches may still be prepared and provided to the project engineer. That decision will probably vary region to region. The memorandum does not have to be sent with your acquisition file. Remember that the project engineer's signature on this memo *does not constitute approval of the approach* but only agreement that it will be constructed as part of the project. This memorandum is intended for internal use and should not be given to the property owner.

9-11.7 Construction Item

If the instrument contains a clause requiring or potentially obligating the state to perform any nature of construction or labor on or adjacent to the grantor's remaining land, the following is inserted as part of said clause in the grantor's instrument only:

> "The grantor herein further grants to the State of Washington , or its agents, the right to enter upon the grantor's remaining lands where necessary to (construct said approach, remove said improvement, remove said crop, remove said timber, etc.)."

9-11.8 Occupancy Date Clause

9-11.8.1 General

In the absence of agreement, occupancy of unimproved real property will occur upon payment being made available to the grantor(s). No clause is required.

9-11.8.2 Early Occupancy

If early occupancy is required, one of the following clauses will be used.

A. "The undersigned hereby agree(s) to surrender occupancy of the lands and/or rights herein conveyed, on the date of acceptance of this instrument by the state."

   In rare instances it may be necessary to gain immediate occupancy. In those cases, the following may be used:

B. "The undersigned hereby agree(s) to surrender immediate occupancy of the lands and/or rights herein conveyed."

9-11.9 Land Locked

On occasion the owner will retain an uneconomic remainder. Determine if the remainder will have access. If there is no access, inform the owner and put notes in the diary accordingly.

9-11.10 Release of Damages

The following are examples of clauses which are to be inserted between the words:

> " . . . by reason of" and the words "due to the . . . ." on the Release of Damages (RES-315) to identify the specific damages for which the state of Washington is making a settlement.
>
> ***Note:*** Since these clauses are inserted in the middle of a sentence, the clauses do not require capitalization or final punctuation.

9-11.10.1 Fencing

The following clause releases the state from the obligation to erect and maintain fencing:

> " . . . its obligation to erect and maintain fencing along the right of way line contiguous to the hereinafter described property . . . ."

9-11.10.2 Water Systems

See Chapter 6 for well and water system agreements.

9-11.10.3 Release of Road Maintenance

A. Eliminating obligations relating to road maintenance provisions concerning property being condemned.

   "TOGETHER WITH all claims of the defendants herein, their heirs, successors or assigns, from any liability of future costs and obligations of the road maintenance provisions incurred as set forth in that certain

(name of recorded document from which the obligations for payment come) recorded under Auditor's file No. XXXXXXX as condemned herein by the State of Washington ."

B. Nonjudicial acquisition of property that has as an appurtenant, a road maintenance obligation.

9-11.11 Mineral Rights Reservation

Used in some instruments of conveyance to the state (deeds), and in some instruments releasing mineral rights.

"It is understood and agreed that all mineral, coal, oil, ores and gases below the surface of the lands conveyed by this instrument and hereinbefore described, are hereby reserved unto the grantors, their successors and assigns; EXCEPT, however, that in the exploration, development, excavation, mining or removing of same, the surface of said lands shall not be occupied or used, the exercise of said rights shall not injure or damage in any manner the highway or highways to be built thereon, increase the cost of maintenance thereof, or interfere with the primary use of said lands and rights of way by the State of Washington , its successors or assigns for road, street, highway or other purposes, or franchises granted across, along, or beneath the surface of said highways, nor shall the grantors, their successors or assigns, do any exploration, development, excavation or mining beneath the surface of the lands hereinabove conveyed within a vertical depth of 500 feet below said surface until the said grantors, their successors or assigns have a plan for such exploration, development, excavation or mining approved by the Secretary of Transportation of the State of Washington , or his successors and assigns, determining that such plan will not be injurious to the primary use of the surface."

9-11.12 Pit Site and Common Borrow

Mineral rights may include gravel and similar material, consult with Acquisition and Title Section Manager prior to final acquisition.

9-11.13 Slope Easement, Termination of

At the request of an owner, the state may terminate its rights in a recorded slope easement. This would be considered when the owner has excavated and/or placed an embankment on the area covered by the slope easement to the level of the grade of the abutting highway. Upon inspection by the state of work performed by the owner and, if such work is found satisfactory to the state, the state may release the slope easement. Be certain that the easement does not include reservation of sidewalk areas, utility rights of way, etc. The rights are terminated by a conveyance from the state containing the following:

" . . . slope easement(s) conveyed to the State of Washington , Department of Transportation by instrument recorded xxxxxx, under Auditor file Number XXXXXX is hereby released . . . ."

9-11.14 Easement for Transfer

Used only when the easement is to be transferred to another party, e.g., a slope easement for a frontage service road that is to be relinquished to the county. "It being understood and agreed that, upon completion of construction, the easement rights granted herein are to be transferred to _____ by an appropriate instrument to be placed of record and that thereafter the rights of the state shall cease and terminate." When acquiring such rights consider the needs of the transferee; what rights would be acquired if they made the purchase direct?

9-11.15 Reversion

Used only upon demand by major land owners maintaining substantial real property holdings such as a railroad and federal government that traditionally have conveyed only easements, provided that the acquisition compensation reflects the reversion right, and only with prior approval of Headquarter's RESM.

9-11.15.1 Reversion Clause

"Upon abandonment of the lands conveyed herein, all of the state's right, title and interest in and to said lands shall revert to the grantors, their heirs, successors, or assigns; subject to any permits or franchises for public or private utilities."

9-11.16 Right of First Refusal

Used only upon demand by grantor(s) with prior approval of the Headquarter's RESM.

9-11.16.1 Right to Repurchase Clause

"Upon determination by the State of Washington, Department of Transportation that all or any portion of the lands herein conveyed are surplus to the needs of the state the grantor(s), __(his, her, their)__ heirs, successors, or assigns shall be offered the right to repurchase. Said right shall be exercised within (60) days of the date the property is offered to the grantor at the current fair market value as determined by the states appraisal.

9-11.17 Donation Clause

A donation of property rights may be accepted only after the owner has waived in writing their right to an appraisal and payment of just compensation. This applies to individuals, businesses, corporations, and other private entities. Donations from government agencies are exempt

from these requirements. Right of way obtained through donation may be incorporated into a federal aid project without jeopardizing participation in other project costs.

The appropriate clause is:

> (My/Our) donation of (parcel number or property description) to the state of Washington, Department of Transportation, is made voluntarily and with full knowledge of (my/our) entitlement to receive just compensation therefore. (I/We) hereby waive the state's requirement of obtaining an appraisal for the acquired property.

9-12 Delivery Clause

The following delivery clause is included in all forms.

> "It is understood and agreed that the delivery of this (deed, etc.) is hereby tendered and that the terms and obligations hereof shall not become binding upon the State of Washington unless and until accepted and approved hereon in writing for the State of Washington, by and through the Department of Transportation, by its authorized agent."

9-13 Instrument Date

The Instrument Date is normally the date the instrument is signed by the (first) grantor(s). The following text appears above the grantor(s) signature(s): Dated this _____ day of _____."

9-14 Execution

9-14.1 General

A. Each person appearing as or representing the grantor is required to sign the instrument in his own hand, spelling out his name(s) and/or initial(s), as applicable, exactly as the name appears of record. The desired form or appearance for the signature is predetermined and is typed under the appropriate signature line before offering the instrument to the signatory for execution.

B. The act of signing may be done before the qualified officer who is to certify an acknowledgment (see Section 9-15). The act of signing may be done elsewhere but each person signing an instrument must personally appear before said qualified officer and acknowledge his own signature.

C. If the initial space provided for signatures is insufficient add additional pages (see Section 9-1.2.2) for adding pages for all signatories.

9-14.2 Individuals

9-14.2.1 Personally

Where individuals are executing for themselves, the interest held or the relationships between such signatories is not stated at the signature blank.

9-14.2.2 Signature by Mark

A witness to a signature is desirable in the case of a sane person who, due to illiteracy, old age, or incapacitating illness, can sign only by using a mark. There is no legal requirement that a signature by mark be witnessed, but the use of witnesses offers great protection to the state because of the agency relationship of the PAS who frequently also acts as the Notary Public. For further guidance consult with Region Title Examiner.

S/ _____ Richard Roe, Witness	His _____Mark_____ John Doe
S/ _____ Jack Smith, Witness	

Signature by Mark With Witnesses (Example)
Figure 9-14.2.2

9-14.2.3 Fiduciary

A person executing an instrument in the place of, or on behalf of, the party in interest does so, by identifying their official and/or legal capacity at the signature blank on the instrument (see Figure 9-14.2.3). The language for identifying the signatory agrees with the language of the party clause.

Execution Only as a Fiduciary	**Execution, Individually *and* as a Fiduciary**
S/ John Doe (written by the attorney in fact) By: _____ Jane Doe, as his attorney in fact	_____ Jane Doe S/ John Doe (written by the attorney in fact) By: _____ Jane Doe, as his attorney in fact
_____ Richard Roe, as trustee under the will of Joe Doe, deceased	_____ Richard Roe _____ Richard Roe, as trustee under the will of John Doe, deceased
_____ Richard Roe, as trustee for John Doe	_____ Richard Roe _____ Richard Roe, as trustee for John Doe
_____ Richard Roe, as (Executor/Personal Representative) for the estate of John Doe, deceased	_____ Richard Roe _____ Richard Roe, as (Executor/Personal Representative) for the estate of John Doe, deceased
_____ Jane Doe, as guardian of the estate of John Doe Jr., a minor	_____ Jane Doe _____ Jane Doe, as guardian of the estate of John Doe, Jr., a minor

Execution By Fiduciaries (Example)
Figure 9-14.2.3

9-14.3 Corporations

9-14.3.1 Private Corporations

Ordinarily, the corporation's president and secretary are the officers who can execute conveyances for the corporation. Their names and titles are typed beneath their signatures (see Figure 9-14.3.1). An instrument from a private corporation is accompanied by a resolution. Consult with Region Title Examiner for certain exceptions.

ABLE BAKER CHARLIE COMPANY, INC.

By: _____
John J. Doe, President

By: _____
J. Paul Smith Jr., Secretary

Corporate Signature Block (Example)
Figure 9-14.3.1

9-14.3.2 Local Public Bodies

Examples of signature blocks for local public bodies are given in Figure 9-14.3.2. An instrument from a public body is accompanied by a resolution.

Counties*

1. Commissioner System: _____ County

   (SEAL)

   _____
   John J. Doe, Chairman

   _____
   Mary E. Smith, Commissioner

   Attest: _____
   County Auditor and Clerk of the
   Board of County Commissioners

   _____
   James J. Jones, Jr., Commissioner

2. Executive – Council System:

   (SEAL) _____ County

   Attest: _____
   Director of Records and Elections

   _____
   John J. Doe, County Executive

Cities*

1. Mayor – Council (Commissioner) System: City of _____

   _____
   (SEAL) John J. Doe, Mayor

   _____
   Mary E. Smith, Councilman (Commissioner)

   Attest: _____
   City Clerk

   _____
   Paul P. Peters, Councilman (Commissioner)

2. Manager – Council System: City of _____

   (SEAL)

   Attest: _____
   City Clerk

   _____
   John J. Doe, City Manager

Other Political Subdivisions*

Example: A School District: Board of Directors of _____
School District No. _____

_____
John J. Doe, Chairman

Attest: _____
Clerk of the Board of Directors
of School District No. _____ of
_____ County, Washington

Mary E. Smith,

_____
James J. Jones, Jr.

Signature Blocks for Local Public Bodies (Examples)
Figure 9-14.3.2

9-14.4 Partnerships

A. If the PC shows title held in name of firm, which proves to be a partnership, modify corporate form (Figure 9-14.3.1) to show firm name and identity of signers as "Partner" if a general partner, or "Limited Partner" if such is the provable fact.

B. If the PC shows title held by individuals, take signatures as prescribed in Section 9-14.1.

9-14.5 Limited Liability Company (L.L.C.)

A. If the PC shows title held in name of an LLC, obtain a copy of the operating agreement to identify the appropriate parties to execute the instrument. This could be one or more individuals acting as either a partner, member or manager of the LLC. After reviewing the agreement, if there are questions of who should sign, consult with the Region Title Examiner.

9-15 Acknowledgment

9-15.1 General

A. To be recordable and to permit its entry as evidence in a court of law without witnesses, a person signing an instrument must acknowledge before a qualified officer that the signature on the instrument is his signature and that he signed the instrument as his free and voluntary act and deed. The signature of the Governor of the state of Washington requires an attest by the Secretary of State.

B. A witness is not a party in interest and his signature is not acknowledged.

C. A single acknowledgment may be used for all parties who acknowledge their signature on an instrument on the same date, provided that the same acknowledgment language is otherwise applicable.

9-15.2 Rules

A. A person acknowledging that a signature is his own, must appear before the qualified officer (see RCW 64.08.010) certifying to the fact and must be known by that officer.

B. The date of the acknowledgment must be the same as or later than the date of the instrument.

C. The acknowledgment must state that the person who signed an instrument did so as his free and voluntary act and deed.

D. The acknowledgment for a corporate grantor must state that the officers of the corporation who signed an instrument were authorized to do so.

E. The qualified officer taking an acknowledgment must derive no personal profit as a result of the execution of the instrument.

F. The acknowledgment must be taken within the territorial jurisdiction of the qualified officer; for example a Washington notary can not acknowledge a signature physically obtained in Oregon.

G. The acknowledgment must recite the capacity for which the person is acting.

H. The acknowledgment of an attorney in fact must state that his principal is alive and sane and that the instrument was executed in behalf of said principal.

I. If the qualified officer taking an acknowledgment is required to have a seal, said seal must not have expired and must be affixed to the acknowledgment. If the qualified officer taking an acknowledgment does not have a seal, a certificate of authority must by attached to the acknowledgment, except that no certificate of authority is required of officers of the U.S. Armed Forces or the U.S. Merchant Marine (see Sections 9-15.2.K.9 and 9-15.2.K.10).

J. The signature of the grantor must be in the same form as it appears within the party clause and within the acknowledgment, unless it is a signature by mark.

K. Officers qualified to take acknowledgments within the geographic area of their respective jurisdictions are as follows:

1. A United States district court commissioner.

2. A judge, clerk, or deputy clerk of the Supreme Court of the state of Washington.

3. A judge, court commissioner, clerk, or deputy clerk of a county superior court

   or a county auditor or a deputy county auditor.

4. A notary public in and for the state of Washington.

5. Any person authorized to take acknowledgments according to the laws of any state other than the state of Washington, or of any territory, district, or possession of the United States wherein the acknowledgment is taken.

6. A notary public, judge, clerk, or other proper officer of any court of a foreign country.
7. The mayor or other chief magistrate of any city, town, or municipal corporation in a foreign country.
8. In a foreign country, any minister plenipotentiary, secretary of a legation, charge d'affairs, consul, vice-consul, consular agent or commercial agent appointed by the United States Government.
9. A commissioned officer in active service with the military forces of the United States.

L. Whenever an instrument is sent out of state for signature and acknowledgment, attach the acknowledgment form appropriate for the state of Washington. The format may be modified by the official taking the acknowledgment to meet the requirements of the jurisdiction where the signature and acknowledgment is actually taken.

9-15.3 Format Examples

Refer to forms for notary acknowledgements on the WSDOT Intranet site as shown in Section 9-1.2.1.

9-16 Attachments/Corollary Documents

9-16.1 General

A. Items which may be attached to an instrument are referenced within the body of the instrument as "Exhibit" with a letter identification, e.g., EXHIBIT "A", EXHIBIT "B". The attachment is labeled with the same reference.

B. A document such as an affidavit may be required to answer questions of grantors' identity, status, interest, etc. This is seldom made as an attachment to the instrument, but held in the file. Most likely such affidavit would be a requirement of the title company.

9-16.2 Rules

A. Attachments to an instrument are verbally bound to such instrument by appropriate language within the instrument at the point the attachment is first mentioned (see Section 9-16.3).

B. Attachments to an instrument are marked EXHIBIT "A," EXHIBIT "B," etc., in the order in which reference is made to each in the instrument.

C. There is no relationship required between the identifying letter of an exhibit and other identifications within the instrument, e.g., Parcel "A". A legal description, if lengthy, may be attached as an exhibit.

D. The word "EXHIBIT" followed by its sequential exhibit identification letter ("A," "B," etc.) in addition to being at the header of the page is also inserted in the lower right-hand corner of each page of each exhibit above the Parcel Number.

E. All attachments (appendages, exhibits, etc.) to an instrument are prepared and attached prior to execution of the instrument.

9-16.3 Exhibits

9-16.3.1 Parcel Descriptions

A. The legal description is an acceptable attachment.

B. The exhibit is verbally bound to the instrument by inserting (in the instrument at the location at which the parcel description would otherwise appear) language such as the following: "See EXHIBIT "A" attached hereto and by this reference made a part hereof."

9-16.3.2 Exhibit Maps

A. Exhibit maps are rarely attached to recorded documents. This is due to the standards for which documents including exhibit maps must comply in order to be recorded.

B. Check with the county auditor/recorder prior to obtaining signature of the grantor to determine if a specific map is acceptable for recording. The determination may consider map details, font, margins and legibility.

C. Each map sheet reproduction is identified above the title block by the "EXHIBIT" identification letter given to it within the instrument.

D. The exhibit maps are prepared by showing the areas to be conveyed as hachured.

E. If more than one type of interest is to be conveyed, the exhibit maps should identify the other interest in alternate hachures or symbols.

9-17 Acceptance and Approval

A. After completion of review and verification that the title and/or interest required by the state is adequately described and suitably clear to the state, the WSDOT authorized signature with date signifies acceptance and approval of the instrument.

B. Instruments not contingent upon acceptance and approval by the WSDOT authorized signatory may be any instrument or document which:

1. Does not directly or indirectly commit the state to a monetary or other financial obligation.

2. Does not encumber property under the ownership or control of the state.

Chapter 10 Vouchers

10-1 General
10-2 Real Property Vouchers
10-3 Reserved
10-4 Invoice Vouchers
10-5 Relocation Assistance Vouchers

10-1 General

10-1.1 Real Property Vouchers

The Real Property Voucher (RES-321) is a legal document upon which an authorized claimant presents for payment itemized charges against the state. It is unlawful for the state to issue a warrant except upon a voucher (RCW 43.88.160).

10-1.2 Invoice Vouchers

The Invoice Voucher (DOT Form 134-139) is used to present for payment itemized charges against the state for goods or services, not otherwise invoiced, such as reimbursement to employee for purchase price paid from personal funds for books for state use.

10-1.3 Relocation Assistance Vouchers

The Relocation Assistance Voucher (see Chapter 13 for RES form) is used to pay all claims determined to be eligible under the Relocation Assistance Program. Types of payment include replacement housing entitlements, moving cost reimbursement, and direct payments to moving companies and other vendors/contractors.

10-1.4 TRAINS

In addition to the three above mentioned vouchers, another form is needed to enable Real Estate Services to pay claimants and that is a Payment Voucher, also referred to as a Trains Voucher. See TRAINS (Transportation Reporting and Accounting Information System) Users Manual for information.

10-1.5 Information Required by the Internal Revenue Service (IRS)

The IRS requires that the Washington State Department of Transportation (WSDOT) obtain the property owner(s) taxpayer identification number (TIN) or social security number (SSN) for reporting purposes. The TIN or SSN provided must match what is registered with the IRS before the payment process can be completed.

10-1.5.1 Procedures to Obtain W-9

A. The PAS shall include a substitute Form W-9 in the package delivered to the property owner at the time the offer to purchase is made. This will provide the property owner adequate time to read over the instructions and complete the form. A substitute Form W-9 is required for all property owners.

B. In the event of a tenant occupant, the Relocation Specialist should include a substitute Form W-9 at the time the specialist delivers the Notice of Eligibility, Entitlements, and 90-Day Assurance Letter to the displaced person for completion.

C. Acquisition and Relocation will need to coordinate efforts so we do not ask the same payee to complete a substitute Form W-9 more than once. In most cases, the Acquisition Specialist will obtain the substitute Form W-9 as part of the transmittal package. If there is a question as to whether or not a substitute Form W-9 is on file, the PAS should contact the TRAINS Helpdesk directly by email to WSDOT TRAINS Help Desk or call 360-705-7514.

D. The PAS shall not provide guidance on how to complete the substitute Form W-9. The payee should be referred to the IRS, their accountant, or legal consultant for advice on how to complete the form. If there are questions on the substitute Form W-9, the PAS should contact the TRAINS Helpdesk directly by email to WSDOT TRAINS Help Desk or call 360-705-7514.

10-1.6 Statewide Vendor Registration

All vouchers require a Statewide Vendor Number to be assigned through the Office of Financial Management (OFM).

10-1.6.1 Procedures to Obtain a Statewide Vendor Number (SWV)

A. The PAS shall include a Statewide Vendor Registration and Payment Options Form (SWV) in the package delivered to the property owner at the time the offer to purchase is made. This will provide the property owner adequate time to read over the instructions and complete the form. One SWV form is required per payee, i.e., if payment to be made to Husband and Wife and using Husband's SSN, property owner completes one SWV form with Husband information on first line and wife's information on second line of the form.

   In the event of a tenant occupant, the Relocation Specialist should include a substitute Form W-9 at the time the specialist delivers the Notice of Eligibility, Entitlements, and 90-Day Assurance Letter to the displaced person for completion.

B. If relocation is involved, the PAS completing the acquisition should provide the SWV number to Relocation.

C. Acquisition and Relocation will need to coordinate efforts so we do not ask the same payee to complete a SWV form more than once. In most cases, Acquisition will obtain the SWV form as part of the transmittal package and provide the SWV number to Relocation. If there is a question as to whether or not an SWV number has been assigned, the Specialist should contact the TRAINS Helpdesk directly by email to WSDOT TRAINS Help Desk or call 360-705-7514.

D. The PAS shall not complete the SWV form for the payee.

10-1.7 Payment Processing

Each payment voucher submitted for payment processing will need to include a SWV number assigned for the payee. If no SWV number has been assigned for the payee, submit an executed substitute Form W-9 and a completed SWV form to have payee set up in TRAINS system and obtain SWV number.

10-2 Real Property Vouchers

10-2.1 Rules

A. The Real Property Voucher (RES-321) is available in electronic form. No erasures, strike-overs, or corrections are permitted in any figure in the "Amount" column.

B. No changes or deletions are permitted in the claimant's certificate which is in the upper right-hand corner of the voucher.

C. All items appearing on the voucher are documented. The just compensation for lands, improvements, damages, special benefits, etc., is supported by the Determination of Value (RES-214). All other items are supported by bills, receipts, letters of approval, etc.

D. Every transaction that is transmitted involving a payment of money by the state requires an original Real Property Voucher.

1. The "principal" Real Property Voucher is a summation of the entire transaction and includes, as applicable:

   a. All items contributing to just compensation:

      (l) Lands (in fee, easement, etc.) and access rights.

      (2) Improvements.

      (3) Damages.

      (4) Special benefits.

b. All remainders either uneconomic remnant or excess acquisition.

c. Deductions – An itemized list (e.g., amounts previously paid, performance bond, salvage amount, prepaid rent).

d. Administrative settlements.

e. Statutory evaluation allowance.

f. Escrow fee.

g. Real estate excise tax.

h. Other Items – An itemized list (e.g., permit fee partial reconveyance fee).

2. There may be one or more "secondary" Real Property Vouchers.

   a. A "secondary" voucher is prepared to order payment of any sum which has been deducted from the "principal" voucher, such as:

      (l) For payment of the grantor's obligation to another party (e.g., real estate taxes).

      (2) For the direct payment of a (deducted) cost-to-cure item.

   b. A "secondary" voucher is prepared to order payment of an item which is not part of the "principal" voucher (e.g., the trustee's fee).

      Note: The seller's incidental expenses are shown in the "Other Items" section of the "principal" voucher when the recipients thereof join with the grantor(s) on that voucher, or are to receive any payment due through an escrow distribution.

3. If a grantor is unable to accept any particular voucher language, the Region RESM contacts the Acquisition and Title Section for instructions.

10-2.2 Procedures

10-2.2.1 Preparation

The Acquisition Specialist prepares all necessary Real Property Vouchers in accordance with Section 10-2.1 as follows:

A. **Grantor or Claimant Block** – Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the escrow specialist's name and address are inserted.

   In addition, insert the SWV number.

B. **Signature Block** – (Located in Upper Right-Hand Corner)

1. If the signatories are individuals, their names may be typed beneath the line upon which they are to sign, if desired. Since the voucher is tied to an instrument (e.g., deed, easement, release), the number of payees and signatories can be limited by use of the appropriate "Payment Authorization" clause (see Chapter 9) in the instrument. If there is insufficient room in the signature block for all the required signatories, insert the words "See attached signature page" here, and have the signatories sign on a separate signature page.

   Obtain substitute Form W-9 from all parties signing voucher.

2. If the signatory is a corporation, the corporation's name and the titles of the officers signing for the corporation are inserted in the signature block. The corporate officers then sign above their respective titles.

   Obtain substitute Form W-9 from corporation(s) signing voucher.

C. **Project Number and Title** – The official project number and plan title as shown on the approved right of way plan are inserted. The project number is identical to the applicable Integrated Realty Information System (IRIS) Project Number.

D. **Federal Aid No.** – The federal aid project number is inserted.

E. **Parcel No.** – The parcel number(s) for the subject property is/are inserted.

F. **Instrument Reference** – The type of instrument (e.g., warranty deed) that requires the payment of consideration and the date of the grantor's execution are inserted.

G. **Items Contributing to Just Compensation** – All items contributing to the just compensation are inserted as follows (but see 10-2.2.1.H.3 with regard to court or jury awards):

1. **Lands Conveyed** – Insert the area (in acres or square feet) of all lands conveyed in fee, easement, etc., showing each area separately. Check that these areas conform with the areas shown on the DV and to those shown on the latest revision of the approved right of way plan. If access rights are included, see Section 10-2.3.3.

2. **Improvements Conveyed** – All improvements acquired by the transaction are listed together with their total value as shown in the DV.

   Note: All improvements and their values are listed here. If the grantor is obtaining salvage rights on any of the improvements, see Section 10-2.2.1.J.3.

3. **For All Damages** – Normally damages are not to be described to any extent greater than they are described in the DV. If the voucher is for some special damage, the type of damage is inserted (e.g., for loss of ground water source).

4. **Special Benefits** – If the DV identifies any special benefits, and:

   a. If the owners elect to accept WSDOT's offer, the amount of the special benefits is inserted. This amount is subtracted from the amounts specified in the DV for lands, improvements, and damages.

   b. If the owners elect to accept WSDOT's offer of fair market value for the acquisition portion plus any damages to the remainder, but defer the offsetting of the special benefits by entering into a lien, the parenthetical phrase "(lien option exercised)" is entered immediately following the words "Less Special Benefits"; the amount of special benefits is inserted as in "a" above; and the deduction negated and the lien noted in the Administrative Settlement section. See J.4, below.

H. **For All Remainders Conveyed** – Any lands acquired that are in excess to required lands are listed using the value as shown on the DV.

I. **Deductions** – An itemized list of all deductions is inserted in this section. The amount of each deduction is preceded with a minus sign in the "Amount" column. Deductions include, but are not limited to, the following:

   1. **Amount Previously Paid** – Show the amount of any prior payments. For example, Possession and Use payments.

   2. **Performance Bond** – Insert a description for the performance bond (e.g., salvage, cost-to-cure completion) and the amount. If there are cost to cure or other performance bond amounts to be deducted, the deduction amount, work to be performed, and deadline date is shown on the Fixtures and Improvements Agreement (RES-335).

   3. **Salvage Amount** – If the grantor is obtaining the salvage rights, insert the clause shown in Section 10-2.3.9 and the amount shown for these rights on the Fixtures and Improvements Agreement (RES-335).

   4. **Pre Paid Rent** – Show the amount of any rent deducted for displacee lease.

   5. **Other** – Real estate taxes, trades/exchanges, etc.

J. **Administrative Settlement** – Insert an itemized list and the amounts paid in excess of the just compensation. The following are examples:

1. **Administrative/Stipulated Settlement** – If an administrative or stipulated settlement has been approved (see Chapter 6), insert the words "Administrative Settlement" or "Stipulated Settlement" and the amount thereof (i.e., the amount over and above the DV).

2. **Court/Jury Award** – Insert the words "Court Award" or "Jury Award," as appropriate, and the amount of the award. No detail of the award is shown. The trial attorney's certificate must accompany the voucher.

3. S**pecial Benefits** – If the owners have entered into a lien to defer the offsetting of special benefits (10-2.2.1G.5.b), insert the clause given in Section 10-2.3.13 and insert the amount of special benefits in the "Amount" column (thereby negating the deduction).

K. **Statutory Evaluation Allowance** – The total of all receipts or statements submitted which cover evaluation services (to a maximum of $750.00 regardless of number of parcels) is inserted. If there is no claim, insert the word "None," and if the grantor is not a signatory to the voucher, have him initial this item. If negotiations are conducted by correspondence, insert the words "to be separately vouchered, if any" on the "principal" voucher. In this situation, a "secondary" voucher is prepared and executed by correspondence if there is a statutory evaluation allowance claimed.

L. **Escrow Fee and Sales Tax** – If the transaction is to be closed in escrow, insert the escrow fee and the sales tax in the blanks provided.

M. **Real Estate Excise Tax**

N. **Other Items** – An itemized list is inserted in this section.

10-2.2.2 Signature

The PAS:

A. Obtains the signature of the appropriate grantors or claimants in the signature block (see Section 9-14).

B. Obtains a completed and signed substitute Form W-9 from the payee in accordance with Section 10-1.5.

C. Obtains a completed SWV form from the payee in accordance with Section 10-1.6.

D. Assures that the date of signing is inserted in the space provided.

E. Signs and dates the voucher in the space provided.

F. Gives a copy of the voucher to the grantor or claimant. Includes the original and all other copies of the voucher with the acquisition transmittal (original to Headquarters) for approval and distribution (within the region).

10-2.2.3 Approval

A. The Region RESM inserts the tabulation of data which identifies the breakdown of funds into federal participating and nonparticipating. If more than one parcel number is entered, a segregation between each parcel number must also be made in the following cases:

1. When the acquisition straddles control section termini.
2. When the acquisition lies in more than one federal aid project.
3. When one or more of the parcels (but not all) acquired in a single acquisition involves the acquisition of excess right of way or an uneconomic remnant.

B. The region accountant takes required actions.

C. The Region RESM signs as Authorized Agent on the original Real Property Voucher.

10-2.3 Clauses

The Acquisition Specialist inserts the following clauses in the voucher as needed:

10-2.3.1 Land Only

After "Lands conveyed," insert: "approx. _____ (acres or square feet) in fee." If appropriate, continue with: "approx. (acres or square feet) in easement," etc.

10-2.3.2 Access Rights Only

Change the words "Lands Conveyed" to: "For All Access Rights."

10-2.3.3 Land and Access Rights

Following the text in Section 10-2.3.1, continue with: "and for all access rights," following the lands conveyed in fee, if any.

10-2.3.4 Improvements

After "Improvement Conveyed," insert a list of the improvements as given in the DV (RES-214), e.g., "dwelling, garage, out buildings."

10-2.3.5 All Remainders Conveyed

"Approx. _____ (acres or square feet) and/or improvement (describe improvement)" as given in the DV (RES-214).

10-2.3.6 Damages

Damages are handled as specified in Section 10-2.2.1.G.4.

10-2.3.7 Timber and Crops

If the grantor is not permitted to remove timber or crops, insert the following text under "Improvements:" "For loss of (all standing or down timber, crops)."

10-2.3.8 Trades/Exchanges

If the transaction involves a trade or exchange, insert the following text under "Deductions:" "The state agrees to convey (when the new facility is opened to traffic) that certain tract of land identified as Parcel/Inventory Control No. as fully set forth in the Exchange Agreement dated _____." Enter value in the "Amount" column.

Note: If both parcel and inventory control numbers are available, insert both.

10-2.3.9 Salvage of Improvements

Under "Deductions:" insert: "Value of Grantor-Acquired Salvage of Improvements (DOT Form 263-003)."

10-2.3.10 Special Benefits, Lien for

If the owners enter into a lien to defer the offsetting of the special benefits, under "Legal/Administrative" insert "$_____ in special benefits subject of $_____ Lien dated _____."

10-3 Reserved

10-4 Invoice Vouchers

10-4.1 Rules

A. The Invoice Voucher (DOT Form 134-139 EF) is available in electronic form. No erasures, strikeovers, or corrections are permitted in any amount to be charged against the state.

B. The Invoice Voucher is an alternate form available for payment of fees, etc.

10-5 Relocation Assistance Vouchers

10-5.1 Rules

A. The Relocation Assistance Voucher (see Chapter 13 for RES form) is available as an electronic form.

B. Claims for payment are documented by attaching invoices, statements, or other supporting documentation as necessary or retained in the official file in HQ.

C. Delinquent rent owed to the department shall not be withheld from the displaced persons relocation entitlements. In addition, the department cannot make deductions from relocation entitlements to satisfy a debt of a creditor.

10-5.2 Procedures

10-5.2.1 Preparation

The specialist prepares the Relocation Assistance Voucher (see Chapter 13 for RES form) in accordance with the following:

A. **Displaced Person or Claimant Block** – Insert the names of all payees and the address of one payee. If the transaction is being escrowed, the claimant block should be filled out as shown below:

ABC Escrow Company
113 Spending Money Lane SW
Beautiful, WA 98222-1212

1. A substitute form W-9 and SWV from the escrow company is required and must be obtained in accordance with the procedures set forth in this chapter.

2. The Entitlement instructions will be sent to the escrow company by the Relocation Specialist.

B. **Signature Block** (Upper Right-Hand Corner)

1. If the claimant is the displaced person, the claimant must sign in this space.

2. If the claimant is not the displaced person (as in the case of a direct payment to a commercial mover or other contractor), an original invoice must be attached and "See Attached Invoice" is inserted in the space. The displaced person must provide confirmation of "okay to pay."

3. If the claimant is not the displaced person, but the displaced person directs payment to said claimant, the displaced person must sign in this space. This includes vouchers made payable to escrow companies or a third party who is being paid on behalf of the displaced person in addition to the displaced person(s).

4. An SWV number must be included on the voucher.

C. **Title** – The official project title as shown on the approved right of way plan is inserted.

D. **Parcel Number** – The parcel number for the subject property is inserted here.

E. **Displacee Number** – The number assigned to the displaced person by IRIS is inserted.

F. **Displacee Name** – The name of the displaced person is inserted.

G. **Date Parcel Vacated** – The date the displaced person's personal property has been removed from the parcel is inserted here.

H. **Replacement Housing Payments**

1. **Price Differential: 180-Day Owner** – Amounts paid to or on behalf of residential owner-occupants displaced by a project (who have been in occupancy of the acquired dwelling for at least 180 days prior to initiation of negotiations) for a purchase or rent supplement payment. Includes reimbursement for eligible loan fees and incidental purchase expenses. The maximum amount on this line is $22,500.

2. **Mortgage Interest Differential Payment (MIDP)** – Amount paid to owner-occupant for increased interest costs associated with financing the purchase of a replacement dwelling only if they have 180-day bonafide mortgage on the displacement dwelling.

3. **Incidental Expenses** – Amount necessary to pay or reimburse an eligible displaced person for certain actual costs incurred incidental to the purchase of an eligible replacement dwelling.

4. **Last Resort Housing: Owner** – Any amount paid under the category of last resort housing to or on behalf of a displaced residential owner-occupant in excess of $22,500.

5. **Rent Supplement: 90-Day Tenant and Certain Other** – Amount paid to 90-day tenants and owner-occupants (who have been in occupancy between 90 and 180 days prior to the initiation of negotiation) for a rent supplement. The maximum amount on this line is $5,250.

6. **Last Resort Housing: Tenant** – Any amount paid under the category of last resort housing to or on behalf of a displaced residential tenant-occupant in excess of $5,250. This includes all payments toward down payments in excess of $5,250 and amounts paid to tenants who fail to meet the length of occupancy requirements.

7. **Down Payment Assistance: 90-Day Tenants and Certain Other** – Amount paid to 90-day tenant and owner-occupants (who have been in occupancy between 90 and 180 days prior to initiation of negotiations) for a down payment allowance toward the purchase of a replacement dwelling. The maximum amount on this line is $5,250.

8. **Comments/Other** – This portion of the voucher can be used to provide direction, such as a last resort housing case where payments will be made on an installment basis. If an advance payment has been or will be made, a short statement is also required.

I. **Moving Expense Amounts**

1. **Schedule/Dislocation Allowance: Residential** – Amount paid to a person displaced from a dwelling by a project. The payment is based upon the number of rooms in the dwelling and whether they are furnished or not.

2. **Actual Expenses/Commercial: Residential** – Amount paid to or on behalf of persons displaced from a dwelling by a project. Basically, any moving related payment which is not a schedule type would fall into this category.

3. **Fixed Payment: Nonresidential** – A particular type of payment available only to business, farms, or nonprofit organizations which meet certain criteria. This payment is in lieu of any and all other types of payments for which the displaced person would otherwise be entitled. It is based on the business income rather than actual moving costs.

4. **Actual Costs: Nonresidential** – Amounts paid to or on behalf of business, farm, or nonprofit organization for all actual, reasonable, and necessary moving expenses.

5. **Reestablishment Costs: Nonresidential** – Amounts paid to or on behalf of a small business, farm, or nonprofit organization for eligible expenses incurred in reestablishing the displaced business at a replacement site.

6. **Personal Property Only: Nonresidential and Nonbusiness Moves** – Amounts paid to displaced persons who have personal property to be moved from the right of way due to an acquisition or project purpose where there is NOT a need for a full relocation of a residence, nonresidential operation (vacant land), business, farm operation, or nonprofit organization (NPO).

7. **Comments/Other** – This portion of the voucher can be used to provide additional information such as explaining an advance payment or deductions. This section can also be used to discuss any other moving payment which would not fit into one of the previously listed categories.

J. **Deductions** – This space is used when a deduction is necessary.

K. **Coding** – Relocation Assistance Vouchers are coded based on the type of relocation payment. The specialist must select the appropriate coding from the object codes and definition chart, i.e., residential replacement housing payments or moving expenses, non-residential reestablishment or moving expenses, and personal property only moving expenses.

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10-5.2.2 Signature

The Property Acquisition Specialist:

A. Obtains the signature of the appropriate claimant(s). In an escrow situation, only the signature of the displaced person(s) is necessary.

B. Assures that the date of signing is inserted in the space provided.

C. Signs and dates the voucher in the space provided.

D. Obtains the signature of the appropriate supervisor or manager within the region or work unit.

10-5.2.3 Approval

A. The PAS identifies and inserts the proper account coding and the breakdown of federal participating and nonparticipating costs. Account coding information is contained in the *Chart of Accounts* M 13-01, Chapter 10.

B. The relocation voucher is sent to Headquarters.

C. The remainder of the approval is conducted as a part of the Headquarters processing.

10-5.3 Relocation Assistance TRAINS Vendor Setup

All relocation payments need to be made through the TRAINS system and follow the department's accounting rules for proper documentation, signatures, and authorization. These rules will be found in Chapter 4-6 of the *Accounting Manual* M 13-02 and in Section 4 of the *TRAINS User Manual*.

A. To setup the vendor for a relocation payment:

1. Region sends completed substitute Form W-9 and SWV form to their region accounting office to obtain a vendor number according to region procedures.
2. These payments must use the vendor number of the entity being paid.
3. If more than one entity is being paid via the payment, the vendor number used must match the name of the first entity shown on the payee line of the relocation voucher.

12-0 Acronyms
12-1 Policy
12-2 Responsibility
12-3 General Policy
12-4 General Relocation
12-5 Relocation Advisory Services
12-6 Residential Relocation Entitlements
12-7 Nonresidential Relocation Entitlements (Business, Farm, and NPO)
12-8 Mobile Homes
12-9 Personal Property Only (PPO) Relocation
12-10 Voluntary Transactions
12-11 Temporary Relocations

12-0 Acronyms

49 CFR 24.2(b)
WAC 468-100-002

Acronyms relating to relocation assistance and the Uniform Relocation Act are located in the Washington Administrative Code and the Code of Federal Regulations. Additional acronyms relative to the Washington State Department of Transportation (WSDOT) are as follows:

AAG	Assistant Attorney General
AG	Attorney General
ALJ	Administrative Law Judge
CFR	Code of Federal Regulations
DLT	Direct Loss of Tangibles (Personal Property)
DV	Determination of Value
EIS	Environmental Impact Statement
HQ RESM	Headquarters Real Estate Services Manager
IRIS	Integrated Realty Information System
LPA	Local Public Agency
NPO	Nonprofit Organization
OAH	Office of Administrative Hearings
PPO	Personal Property Only
RAPM	Relocation Assistance Program Manager
RCW	Revised Code of Washington
RES	Real Estate Services
RHP	Replacement Housing Payment
RVI	Replacement Value Insurance
SPP	Substitute Personal Property

WAC	Washington Administrative Code
WSDOT	Washington State Department of Transportation

12-1 Policy

49 CFR 24.1
RCW 8.26.010
WAC 468-100-001

12-1.1 Purpose

To establish uniform procedures in relocation assistance that will assure legal entitlements are provided and to provide fair, equitable, and consistent treatment to persons displaced by projects administered by WSDOT.

12-1.2 Authority

A. Title 42, United States Code Chapter 61, Sections 4601-4665 (42 USC §§ 4601-4665), the Uniform Relocation Assistance and Real Property Acquisition Polices for Federal and Federally Assisted Programs (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended), Public Law 91-646, 84 Stat. 1894 (42 USC 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV(1987 Amendments), Public Law 100-17, 101 Stat. 246-256 (1987 Amendments).

B. Code of Federal Regulations (CFR), 49 CFR Part 24.

C. The Revised Code of Washington (RCW), Chapter 8.26.

D. The Washington Administrative Code (WAC), Chapter 468-100.

12-2 Responsibility

12-2.1 Applicability

49 CFR 24.2(a)(9)
RCW 8.26.020(4)
WAC 468-100-002(9)

A. The provisions of this chapter are applicable to any person who is displaced by any state or federally assisted highway project or program.

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.

49 CFR 24.4
RCW 8.26.085
WAC 468-100-004

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. See Chapter 6 for information and procedures for protective buying and hardship cases.

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 if available three comparable replacement dwellings used in determining the replacement housing entitlements.

3. No person lawfully occupying real property will be required to move from the acquired dwelling, business, farm or NPO, without being provided a written assurance at least 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 will 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 Relocation Assistance Program Manager (RAPM).

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 work loads allow.

12-2.4 Transaction Reviews

12-2.4.1 Region Review

The Region Relocation Assistance Supervisor:

A. Verifies that the Relocation Eligibility Report has been completed and transmitted to Headquarters.

B. Verifies that the Relocation Plan has been approved by Headquarters and distributed to appropriate disciplines within the region.

C. Verifies that all the proper notices and relocation brochures have been given to displaced persons. Forwards original signed copies of notices to Headquarters Review for retention in the official parcel file.

D. Assures that all appropriate relocation entitlements have been calculated and presented to the displaced person(s).

- Reviews replacement housing calculation packages.
- Approves residential moving entitlements.
- Reviews all residential, nonresidential, and PPO recommendations and claims before submittal to Headquarters.

E. Determines the need for any revisions or re-computations of relocation entitlements that might arise from matters, such as an administrative settlement, uneconomic remainders, or offer withdrawn.

F. If a claim is considered ineligible for reimbursement, the region is responsible to provide the displaced person a written statement explaining why the claim was ineligible or denied once the determination is made by the region. The written statement must also include language for review and reconsideration of decision and appeal. A copy of the written statement shall be sent to Headquarters for the original file.

Appendix 12-2

G. Verifies that all computer entries have been made.

H. On a monthly basis, sends updated relocation status report to relocation review at Headquarters.

12-2.4.1.1 Headquarters Review

A. Verifies that all necessary and appropriate documentation has been obtained and transmitted to Headquarters. Notifies Relocation Specialist of missing documentation or if any changes are necessary.

B. Reviews and approves/denies all relocation entitlement calculations, recommendations, and claims submitted by the region in accordance with state and federal regulations. Review includes verification of all calculations, citations, and computer entries.

C. Approves relocation claims and authorizes payments. Notifies Relocation Specialist of missing documentation or if citation and voucher coding is incorrect.

D. Assures that advance payments are properly deducted from total relocation entitlement.

12-2.4.2 Condemnations

12-2.4.2.1 General

After an acquisition parcel is turned in for condemnation, all contact by the acquisition section 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" (RES-518). If this option is selected, the specialist should work closely with the Attorney General's Office to ensure 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 RES-507a.

49 CFR 24.9
WAC 468-100-009

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 local public agency (LPA) relocation work until the project is complete. LPA originals will be returned to region staff upon completion of the project so they can be returned to the acquiring agency.

2. With the exception of LPA originals as discussed above, all 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. Relocation records are also maintained in the computer database.

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 RAPM.

12-2.6 Annual Reports

49 CFR 24.9
WAC 468-100-009

An annual statistical report is submitted every year for the preceding federal fiscal year. The report is forwarded to FHWA not later than October 31.

Appendix 12-7

12-3 General Policy

12-3.1 General Operation

A. **Agreement Not to Rent** – The department can enter into an agreement with a nonoccupant owner to not rent the property during negotiations for the purchase of the property. The department will not enter into a signed lease as we would in a Protective Rent situation. The acquisition section will administer according to procedures set forth in Chapter 6 and will utilize form RES-343.

B. **Appeal Procedures** – Appeal procedures for requesting a formal adjudicative hearing before the Office of Administrative Hearings are available to displaced persons as described in Section 12-5.5. In addition, WSDOT offers the displaced person review of the region's decision by the RAPM, and reconsideration of the RAPM's decision by the WSDOT Relocation Review Board as an option before proceeding to a formal adjudicative hearing.

49 CFR 24.10
WAC 468-100-010

C. **Closing Expenses** – Closing expenses (incidental purchase expenses) are reviewed and reimbursed by the department in accordance with Section 12-6.3.

49 CFR 24.401(e)
RCW 8.26.045(1)(c)
WAC 468-100-401(5)

D. **Duplicate Payments Prohibited** – Displaced persons are not entitled to receive any other payment which substantially duplicates the general purpose and effect of any other payment or project cost received by that displaced person as 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.

49 CFR 24.3
RCW 8.26.105(2)
WAC 468-100-003

Appendix 12-15

E. **Forms** – A list of all forms pertinent to the Relocation Assistance Program are included in Chapter 13.

F. **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 specialist should forward a copy of the letter withdrawing the offer to the relocation section (see Chapter 6, Acquisition).

49 CFR 24.501
WAC 468-100-501

G. **Mobile Home Occupants** – Mobile home occupants are offered replacement housing payments as regulated by Section 12-8.

49 CFR 24.401(d)
WAC 468-100-401(4)

H. **Mortgage Interest Differential Payment (MIDP)** – Increased interest costs are computed and paid in accordance with Section 12-6.3.

49 CFR 24.301
WAC 468-100-301

I. **Moving Cost Payments** – Moving cost payments are determined in accordance with Sections 12-6.5 through 12-9.

49 CFR 24.203(c)
WAC 468-100-203(3)

J. **Ninety-Day Assurance** – Owners and tenants are not required to move without being provided a written assurance at least 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.

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. **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 HQ RESM or designee (see Chapter 11).

M. **Personal Contacts** – Personal contacts with displaced owners and tenants are made by Relocation Specialists in accordance with the provisions of this manual as discussed in Section 12-5.1.4. The specialist 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.

N. **Preliminary Investigation** – Preliminary investigation of project impacts on displaced persons and availability of replacement housing is made by the Relocation Specialist in accordance with Section 12-4.2.

O. **Protective Rent** – If a tenant vacates the property before the department acquires possession, it may be appropriate for the department to enter into a lease and pay protective rent to prevent the property from being rented to another tenant. The acquisition section will administer the protective rent program. Both the acquisition specialist and Relocation Specialist need to coordinate activities. A Relocation Specialist should notify the acquisition section if a tenant wishes to vacate prior to WSDOT possession. See Chapter 6 for procedures.

P. **Reassignment of a Relocation Assistance File** – When a relocation parcel file is reassigned, the current assigned specialist must turn over an organized and updated file with all correspondence to their supervisor or the newly assigned specialist. At a minimum, the file should contain:

- An updated checklist.
- Eligibility Report.
- Current signed diary with a statement that the file is being reassigned to another specialist.
- Correspondence such as emails, letters/notices, notes, etc.
- Documents such as photos, forms, leases, purchase and sale agreements, etc.

Q. **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. Relocation plans are developed in accordance with Section 12-4.2.

R. **Relocation Review Board** – A WSDOT board consisting of three members who review requests by a displaced person for reconsideration of the RAPM's determination of a displaced person's relocation claim.

S. **Replacement Housing Payments** – Replacement housing payments are determined and administered in accordance with Section 12-6.3.

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.

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. This requirement does not apply to projects funded with state funds.

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 specialist, or employees are not eligible for payment.

49 CFR 24.403(a)(6)
WAC 468-100-403(1)(f)

D. **Deductions From Relocation Payment** – The Relocation Specialist 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.

49 CFR 24.204
RCW 8.26.075(2)
WAC 468-100-204

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 which is provided to the displaced person in the Notice of Eligibility, Entitlements and 90-Day Assurance Letter.

2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property.

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.

4. **Comparable Replacement Dwelling – Short Sale Homes or Bank/REO (Real Estate Owned) Homes** – It is common to see short sale listings and bank or REO homes listed on NWMLS or other MLS systems. The difference between the two types of listings are:

   - **Short Sale Homes** – When dealing with short sales, there is a third party (bank) involved in the transaction. Once an offer is made to the homeowner on a short sale property and there is mutual acceptance between the owner and the buyer, they are then required to get acceptance on the offer from the bank. This process can take months to complete and the average short sale transaction is about 6.5 months. If the home has multiple mortgages then all banks must approve the offer. Short sale homes are not considered

available by WSDOT standards and should not be used as the comparable home selected by the department to compute the replacement housing payment.

- **Bank/REO (Real Estate Owned) Owned Homes** – Before the home becomes a bank foreclosure sale or REO, it is auctioned through the county. If it does not sell at auction, it becomes an REO home and is then listed by a real estate agent for sale on behalf of the bank. If a home is bank/REO owned, the process can be quicker than a short sale, but you are still dealing with a bank rather than an individual home owner. This can delay the process, so these homes should not be used as comparables selected by the department to compute the replacement housing payment. Most foreclosures can be completed with the 30- to 45-day closure period just like any other home transaction. Once the turnaround time is confirmed, a bank/REO home can be used as a comparable dwelling. Remember, a bank/REO property must still pass all DSS standards in order for the displaced person to be eligible for their replacement housing payment.

The specialist should advise the displaced person if they choose to purchase a bank/REO property or even a short sale and it takes longer than expected and if the ad date is approaching, they could be required to move once their 90-day assurance expires and the acquiring agency will not approve costs associated with a double move (i.e., storage, per diem, temporary housing).

F. **Federally Assisted Projects With a ROW Phase** – 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 displaced person make application within the required time limits to qualify for relocation payments and that, in a residential situation, the replacement dwelling meet the department's standards for decent, safe, and sanitary housing.

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 RAPM. The Region

Relocation Supervisor must provide a detailed memorandum (with map) setting forth the circumstances for the request to the RAPM. A copy of the Appraisal and Determination of Value is also requested. If federal funds are proposed to be used for relocation or acquisition costs for property not incorporated into the final right of way, they can only be used for material sites, property acquisitions to a logical boundary, disposal of hazardous materials, environmental mitigation, and easements for permanent or temporary use.

49 CFR 24.207(f)
WAC 468-100-207(6)

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

49 CFR 24.204(b)
RCW 8.26.075(3)
WAC 468-100-204(2)

A. **General** – The requirement that no person shall be required to move unless at least one comparable replacement dwelling 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 the Disaster Relief Act of 1974 (42 U.S.C. 5122); 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.

49 CFR 24.204(c)
WAC 468-100-204(3)

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.
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.
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 replacement 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 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.

49 CFR 24.3
WAC 468-100-003

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 Chapter 39.34 RCW when requested to provide services to such agencies pursuant to RCW 8.26.095.

B. Costs of project activities may be charged to projects in accordance with Chapter 1. Those activities can include technical guidance, consultation, training or work directly on specific projects to assist public agencies in providing relocation assistance at an acceptable level.

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 Chapter 8.26 RCW.

D. Contracting for relocation assistance services should be handled in accordance with the procedures set forth in Chapter 1, Section 1-12.

12-3.5 Deviation From Procedures

Any deviation from procedures outlined in this chapter will require the region or local agency to submit a request to the RAPM outlining the issues. The request must include sufficient documentation as to why the procedure cannot be followed and the alternative solution. ***Caution:*** If a project is federally funded, any deviation from procedures without approval will jeopardize federal funding.

12-4 General Relocation

49 CFR 24.2
RCW 8.26.020
WAC 468-100-002

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 referred to as "nonresidential."

D. **Carve Out** – A "Carve-out" is a term commonly used to describe the method for determining what portion of property occupied by a residential owner of 180 days or more is to be used in computing a replacement housing payment if the displaced person is situated on a site either larger than typical for residential purposes, or whose property is actually occupied by or used for other purposes, or has a major exterior attribute not typical of the area.

E. **Certified Copy** – A "certified copy" is a copy (often a photocopy) of a "filed" document, legal or other, in its entirety (everything within a staple) that is sworn to be a true and correct copy by the individual who prepared it, i.e., accountant, attorney, business owner. The statement can be as simple as the following: "I hereby certify that this document is a true and correct copy."

F. **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.

G. **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.

H. **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.

I. **Nonresidential** – The term nonresidential includes a business operation, farm operation, or nonprofit organization (NPO).

J. **Personal Property Only (PPO)** – A move of personal property from the acquired property for project purposes where there is not a need for a full relocation of a residence and/or a nonresidential operation.

K. **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 specialist will need to obtain legal documents to support residency, i.e., utility bills, driver's license, voter registration, auto registration.

L. **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, home inspection 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 180-day owner occupant 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. The computation is based on the most comparable dwelling selected by the department.

4. **Rent Supplement** – The amount, determined by WSDOT, necessary to compensate an eligible displaced person for the increased cost of renting an eligible replacement dwelling. The computation is based on the most comparable dwelling selected by the department.

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.

M. **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)

49 CFR 24.205
RCW 8.26.065
WAC 468-100-205

12-4.2.1 Preliminary Plans

49 CFR 24.205(a)
RCW 8.26.065(1)
WAC 468-100-205(1)

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 possible 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).

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, not including short sales and bank/REO owned properties, 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.

49 CFR 24.205(a)
RCW 8.26.065(1)
WAC 468-100-205(1)

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 RAPM 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 RAPM for review and approval. Upon approval by the RAPM, a copy of the approved plan is returned to the region showing such approval and a copy is provided to Headquarters Appraisal, Property Management, and Acquisition/Title. The Region Relocation Supervisor should distribute an approved copy of the plan to each discipline within their region.

C. The Relocation Specialist should deliver a relocation brochure to displaced person at the time the specialist is collecting the information on the occupancy survey for the preparation of the relocation plan. If appropriate,

the Relocation Specialist 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 (DSS) 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 Specialist 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 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 (DSS) replacement housing. This does not necessarily mean a replacement in kind for the dwellings to be acquired. It means providing DSS 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.

Nonresidential Displacements

1. The relocation plan 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 (not including short sales and bank/REO owned homes) 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 DSS 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, 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, internet websites such as Craigs List, 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 could also be utilized.

3. The inventory of available residential housing should summarize:

a. The number of comparable replacement dwellings, not including short sales and bank/REO owned homes, in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. Remember short sales and bank/REO owned homes should not be selected as comparable dwellings by the acquiring agency as they are time consuming and not considered available to the displaced person

within a reasonable amount of time. 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, nonresidential, and personal property.

12-5 Relocation Advisory Services

49 CFR 24.205(c)
RCW 8.26.065(2)
WAC 468-100-205(3)

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. Services are provided by personal contact by the region Relocation Specialist. If personal contact cannot be made, the Relocation Specialist 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(9).

49 CFR 24.2(a)(9)

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

The Relocation Specialist provides relocation assistance advisory services to include such measures, facilities, or practices as may be necessary or appropriate. The amount and extent of the advisory services are administered on a reasonable basis commensurate with the needs of the displaced person.

A. For all displacements, the Relocation Specialist shall:

1. Determine the need, if any, of displaced persons for relocation assistance by completing the appropriate occupancy survey. The form should be completed by the Relocation Specialist during the on site visit with the displaced person. The specialist should ask all questions on the form. If the displaced person advises during the interview that the question is not applicable the specialist should note that on the form.

2. Explain the types of relocation payments, move options, and the eligibility requirements to receive relocation payments and assist in completing any required forms.

49 CFR 24.203(c)
WAC 468-100-203(3)

3. Advise displaced persons that they will be provided with a written 90 Day Assurance of the earliest date they will be required to vacate the displacement property.

49 CFR 24.209
RCW 8.26.115
WAC 468-100-209

4. 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 any state or federal law.

49 CFR 24.10
WAC 468-100-010

5. Advise that all displaced persons have the right to appeal department determinations regarding relocation assistance or relocation payment amounts and as an option may seek informal review by the RAPM of the Relocation Specialist's decision, and reconsideration of the RAPM's decision by the WSDOT Relocation Review Board prior to commencing a formal appeal.

B. For residential displacements, the Relocation Specialist shall:

49 CFR 24.204
WAC 468-100-204

1. Provide current information regarding the availability, purchase prices and/or 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 necessary provide additional available comparable replacement dwellings.

2. Discuss Decent, Safe and Sanitary (DSS) replacement requirements with the displaced person. The DSS inspection does not replace a professional home inspection. Advise the displaced person (owner occupant) that WSDOT strongly recommends they obtain a professional home inspection by a qualified home inspector when purchasing a replacement dwelling. If the displaced person is a 180-day owner occupant, they should be advised the home inspection is 100 percent reimbursable by the department. The Purchase and Sale Agreement for the replacement dwelling should be contingent on both the home inspection and the DSS inspection. For a displaced residential tenant who elects to purchase a replacement home using Down Payment Assistance, and for a 90-day owner occupant, the home inspection is reimbursable however it is part of their original RHP and not paid in addition to as is with a 180-day owner occupant.

49 CFR 24.401
49 CFR 24.402(c)
WAC 468-100-401
WAC 468-100-402(3)

3. 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.

49 CFR 24.205(c)(2)(ii)(B)
WAC 468-100-205(4)(b)(ii)

4. 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.

49 CFR 24.205(c)(2)(ii)(C)
WAC 468-100-205(4)(b)(iii)

5. Whenever possible, minority persons shall be given reasonable opportunities to relocate to Decent, Safe and Sanitary (DSS) replacement dwellings, within their financial means. Specialist shall not "steer" the displaced persons to minority concentrated areas only. 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.

49 CFR 24.205(c)(2)(ii)(D)
WAC 468-100-205(4)(b)(iv)

6. 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.

49 CFR 24.205(c)(2)(v)
WAC 468-100-205(4)(e)

7. Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised that the requirements of such government housing assistance program dictates the comparable dwelling made available to them.

49 CFR 24.205(c)(2)(ii)(F)
WAC 468-100-205(4)(b)(vi)

49 CFR 24.205(c)(2)(ii)(E)
WAC 468-100-205(4)(b)(v)

8. Offer to provide transportation to displaced persons to search for or view replacement housing.

49 CFR 24.205(c)(2)(iv)
WAC 468-100-205(4)(d)

9. Provide other advisory services to displaced persons to minimize hardships to such persons in adjusting to a new location as appropriate.

10. For a tenant displacement, the Relocation Specialist needs to determine if the tenant paid a damage deposit, first and/or last months rent to their landlord. This information should be recorded on the Residential Occupancy Survey (RES-532) and provided to the acquisition specialist. Further, if there is prorated rent from the time WSDOT comes into ownership of the property the Relocation Specialist will need to advise the tenant that they will need to get any of these refunds from their current landlord, not WSDOT.

49 CFR 24.301(b)
WAC 468-100-301(2)

11. Explain the moving options available and the differences between the commercial move and the self move options, i.e., fixed residential moving cost schedule (room count) and actual costs.

12. Advise the displaced person if they choose to purchase a bank/REO property or even a short sale and it takes longer than expected and the ad date is approaching, they could be required to move once their 90-day assurance expires and the acquiring agency will not approve costs associated with a double move (i.e., storage, per diem, temporary housing).

C. For nonresidential displacements, the Relocation Specialist shall:

The level of advisory services for nonresidential displacements may be different for each displaced business, farm or nonprofit organization (NPO) depending on the complexity of the displacement.

1. Provide current and continuing information on the availability, location, purchase prices, and rental costs of suitable commercial and farm properties. The Relocation Specialist should advise the displaced person to seek the services of a local commercial real estate agent.

2. Assist the person displaced from the person's business, farm operation or NPO in obtaining and becoming established in a suitable replacement location. This should include advice regarding potential moving and reestablishment claims based on the selection of a suitable replacement site.

3. Advise displaced business owners that professional services obtained by them must be preapproved by WSDOT as the determination will be made based on what is reasonable and necessary for their type of relocation. Not all businesses require professional services. Advise

displaced business owners that prior to entering into a contractual obligation for professional services, that they must obtain a minimum of two "Scopes of Work" estimates. As part of advisory services, the Relocation Specialist should review the Scopes of Work to determine which items listed are considered eligible for reimbursement and advise the business appropriately. Advise displaced person that professional services are categorized into three sections:

a. Professional services to plan the move, plan the placement of the personal property at the replacement location, and the actual move of the personal property.

49 CFR 24.301(g)(12)
WAC 468-100-301(7)(l)

b. Professional services performed prior to the purchase or lease of the replacement site to determine suitability of the replacement site.

49 CFR 24.303(b)
WAC 468-100-303(2)

c. Professional services obtained to reestablish at the replacement site.

49 CFR 24.304(7)
WAC 468-100-306(1)(g)

4. Encourage the business to work closely with their Relocation Specialist throughout the entire relocation.

5. As soon as feasible, discuss completing the site search log and discuss and document approved hourly rates for specific activities of the various employees (different rates may be considered reasonable for different types of activities). The Relocation Specialist and Region Relocation Supervisor need to agree upon and pre-approve a reasonable rate for the person performing the site search tasks.

6. Provide business owner with a large envelope with form RES-545 – Nonresidential Obsolete Printed Items, to be completed and returned as soon as possible. Obsolete printed items include items such as letterhead, business cards, checks, etc., that become obsolete due to the displaced business's change of address to the replacement location. Explain they will need to supply a copy of each item that will need to be reprinted due to the move in order to be reimbursed for printing costs. Prior to the move, the Relocation Specialist must complete an inventory of each item considered obsolete. Photographs may be appropriate in some cases. Discuss with the business owner options available other than reprinting, for example stickers to be placed over address. Go Green!

7. It may be necessary to refer the business to an industry professional for technical or code issues.

8. If a business has questions regarding relocation funds not being considered income, advise them to speak with a tax accountant. WSDOT cannot provide legal or tax advice.

49 CFR 24.209
RCW 8.26.115
WAC 468-100-209

9. Clearly explain Substitute Personal Property (SPP) and Actual Direct Loss of Tangibles (DLT) early in the process and prior to obtaining professional move bids to the business owner so they can make informed decisions regarding their relocation.

10. The Relocation Specialist and the business owner need to be present during the appraisal walk through to discuss Realty vs. Personalty issues. In addition the displaced business needs to understand the importance of the differences between realty and personalty. If there are questionable items, the Relocation Specialist and the appraiser need to discuss what is the appropriate way to handle the item in question. In order to avoid confusion at a later date, the Appraiser should detail the items on the Realty vs. Personalty Report (RES-217). If the item is not discussed in the appraisal, it does not automatically make the item personal property and eligible for relocation assistance. If not addressed, the Relocation Specialist will need to consult with the appraiser to get a determination as to the status of the item. When a displaced business wants to keep an item that is considered real property, it should be handled according to procedures set forth in Chapter 6 addressing the salvage of real property.

49 CFR 24.301
49 CFR 24.303
49 CFR 24.304
WAC 468-100-301
WAC 468-100-303
WAC 468-100-306

11. Explain all move options to a displaced business and the differences between the commercial move and the self move—based on the lowest acceptable bid or specialist estimate or actual costs supported by receipts/invoices. Advise the displaced business owner if they elect to go with the fixed payment in lieu of all other relocation expenses, they should wait to make the decision until after all appropriate move estimates have been obtained so they can make an informed decision. Clearly explain that if the displaced business owner elects the fixed payment that he or she cannot receive payment for any of the other moving and related expenses.

12-5.1.3 Exchange of Information With Other Agencies

Relocation specialists 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.

12-5.1.4 Relocation Assistance Diaries

Diaries are often the only written documentation that is available to show that right of way transactions are done in compliance with the Uniform Act and 49 CFR Part 24. Therefore, diaries need to provide a complete record of the transaction. They need to be well organized and factual, and they should be written for someone unfamiliar with the transaction. Also, the diary shall reference any appropriate documents in the file such as brochures and forms provided to property owners/tenants or estimates obtained to support an administrative record.

Each diary entry shall clearly show the month, day, and year of the contact; the name of the individual who made such a contact; how the contact was made (i.e., in person or by phone) and the name(s) of the individual(s) contacted. Each diary entry shall provide a summary of the contact. It is not sufficient to enter a simple posting of events as they occurred. For example, merely recording that the specialist presented an offer or that "discussions were held" on a given date tells too little. The entry should indicate, at the very least, where the event took place, what the owner's reaction was, what questions the owner asked and what answers the specialist supplied. These elements are at the very heart of the negotiation process, and when an acquisition becomes difficult or negotiations break down, a well-written diary may be the most important document protecting the acquiring agency's interests.

Multiple contacts should be stated in separate paragraphs. These entries need to be made as soon as possible to insure accuracy. Upon completion of activity entry, the specialist should type their initials after each entry. Electronic diaries are recommended and they should not have any spelling errors.

Diary entries need to be limited to a recitation of the facts because the diary is subject to the rights of discovery by all parties in any court proceeding or appeal case. All persons who participate in relocation activities with displaced persons, whether staff or consultant shall maintain an appropriate diary or log of such activities and discussions with the displaced persons. If more than one specialist is working on a file it is recommended that all specialists contribute to the same diary. The specialist must initial after each diary entry and all specialists should sign the diary when the relocation is complete.

A collection of emails pertaining to the acquisition and relocation of a parcel does not constitute a diary. Information taken directly from email correspondence often contributes to a good diary, but care should be taken to exclude extraneous information.

Remember if it is not in the diary, it is difficult to prove it happened. Should a relocation claim be appealed, the lack of information in the diary will create a burden to prove that those discussions and activities did happen.

A. Residential diary entries include, but are not limited to the following:

1. Proper displaced person information including name, a contact phone number, address of displacement site, current mailing address, project name, parcel number, and current work order number and control section.
2. Specialist assigned and date of assignment.
3. Date and time of all telephone contacts.
4. Date, time, place, and name of all individuals present at face-to-face meetings, including what was discussed and any resolutions.
5. Preparation and presentation of all official relocation notices, notification of and any other general correspondence mailed to the displaced person. If notice was mailed by certified mail, include certified numbers.
6. Date when items were received from the displaced person, i.e., signed documents, letters requesting information, phone calls, emails.
7. Statement that the relocation program was discussed with displaced person verbally and that displaced person was given a relocation brochure.
8. Statement on how the specialist arrived at the room count entitlement. ***Example:*** living room = 1 room, kitchen = 1 room, 2 bedrooms = 2 rooms, garage = 3 rooms, total = 7 rooms, $1,800. There should be a statement included in the diary that states the calculation has been approved by the Region Relocation Supervisor.
9. Discussion of comparable search information. Where did specialist obtain the information for the comparable home search? What search criteria was used? How many comparable homes were available? Of those, how many were selected to view?
10. Information or statement in relation to viewing the selected comparable homes and which of the three comparable homes the specialist selected as the most comparable and why. Also, a statement should be included that an interior inspection of the most comparable home was completed or if the interior was not inspected why it was not inspected.

11. Include the specialist's line of thinking. Why is the specialist making certain considerations for this displaced person? Why might the specialist be considering a 4-bedroom comparable home versus a 3-bedroom comparable home?

12. Carve out issues. If applicable discuss why a carve out is necessary, i.e., mixed use property, large outbuilding, pool.

13. Statement that advisory services were offered to the displaced person, such as transportation if needed or any community or social service contacts that may need to be made. In the case of an owner occupant, the specialist will need to include a statement in the diary that the specialist advised the displaced person to get a professional home inspection of the replacement home and that the costs will be reimbursed by WSDOT.

14. Any issue brought up by the displaced person that requires further research or consultation with others.

15. Questions asked by the displaced person and response given by the specialist.

16. DS&S inspection. List who was on site during the inspection; make sure you turn on stove, furnace, check smoke detectors, flush toilets, turn on faucets, check under sinks for leaks, etc., in front of displacee/agent/owner, etc. Discuss any issues at this time. Note that you explained that the agency recommends and will pay for a home inspection requested by the displaced person and the displaced person's response.

17. Confirm with acquisition and record the final settlement amount in the diary. If the acquisition payment involves an administrative settlement, a copy needs to be included in the actual Price Differential payment package that is sent to Headquarters for review.

18. Clearly identify the vacate date.

19. Documentation of all relocation claims submitted by the displaced person.

20. Send an updated diary to Headquarters with any request for approval or claim. Failure to include an updated diary could delay the processing of the claim.

21. Initials of the Relocation Specialist need to be either typed or hand written after each diary entry.

22. Final statement stating that the relocation is complete. Date, sign, and send final diary with original signature to Headquarters.

B. Non-Residential diary entries include, but are not limited to the following:

1. Proper displaced person information including name, name of business/non-profit organization/farm, a contact phone number, address of displacement site, current mailing address, project name, parcel number, and current work order number and control section.
2. Relocation specialist assigned and date of assignment.
3. Date and time of all telephone contacts.
4. Date, time, place, and name of all individuals present at face-to-face meetings. Include what was discussed and any resolutions.
5. Preparation and presentation of all official relocation notices, notification of and any other general correspondence mailed to displaced person. If notice was mailed by certified mail, include certified number.
6. Date when items were received from displaced person, i.e., signed documents, letters requesting information, tax information, phone calls, emails, etc.
7. Statement that relocation program was discussed with displaced person verbally and that they were given a relocation brochure. This discussion should discuss reestablishment and show what the difference between actual move costs versus a fixed payment.
8. When dealing with non-residential moves sometimes many different specialists and vendors are contacted. A record of all contacts made is important.
9. Date of occupancy survey, determination of number of businesses, identification of personalty versus realty.
10. Diary shall include at least one entry where the specialist describes the advisory services provided, i.e., preapproval process, claim process, importance of working with specialist, reason for viewing tax records.
11. Statement that moving options were discussed in detail, that the fixed payment was explained, that the moving and related expenses that the agency will not pay if the displaced business chooses the fixed payment were explained in detail, substitute personal property (SPP) options, direct loss of tangible personal property (DLT) options, obsolete items, site search costs, etc. Statement that reestablishment items were discussed in detail.
12. Vacate date clearly stated.

13. Documentation of all relocation claims submitted by displaced person.

14. Send an updated diary to Headquarters with any request for approval or claim. Failure to include an updated diary could delay the processing of the claim.

15. Initials of the Relocation Specialist need to be either typed or hand written after each diary entry.

16. Final statement stating that relocation is complete. Date, sign, and send final diary with original signature to Headquarters.

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 Regional 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 Regional 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 of such DSS housing to the anticipated year of right of way acquisition; any alternative plans considered for rehousing 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. Eligibility requirements and payment limits for nonresidential reestablishment costs.

4. 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 Specialist 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.

49 CFR 24.203
WAC 468-100-203

12-5.4 Relocation Written Notices

12-5.4.1 General

A. Appropriate relocation assistance notices will be provided to each residential occupant (family or individual); nonoccupant 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.

49 CFR 24.5
WAC 468-100-005

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 specialist 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. Translation and Counseling: Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. A certified translator must be used for those documents needing translation. Contact Headquarters 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 Specialist should note the refusal on the copy of the notice and transmit this copy to Headquarters for inclusion into the official file. The Relocation Specialist should also note the refusal in the Diary. The RAPM 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 must be sent by certified or registered first-class mail, return receipt requested, and documented in the official file. The electronic return receipt or copy of front and back of the green card needs to be attached to the copy of the letter sent to Headquarters for inclusion in the official file.

49 CFR 24.5
WAC 468-100-005

E. A nonoccupant 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 Specialist handling the case. The Relocation Specialist should advise the displaced person of the importance of reading and understanding the information in the brochure and of asking any questions the displaced person may have regarding the information in the brochure. The specialist should note in the diary that the displaced person was so advised, including whether the displaced person did or did not have any questions and what those questions were.

12-5.4.2 Notice of Intent to Acquire

49 CFR 24.203(d)
WAC 468-100-203(4)

A. If the Headquarters Real Estate Services Manager 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 15 days and the owner is simultaneously notified of such action by furnishing such owner with a copy of the tenant's notice.

49 CFR 24.203(a)
WAC 468-100-203(1)

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 Specialist 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 Specialist or upon request, by the acquisition agent.

49 CFR 24.208
WAC 468-100-208

Note: **Lawfully Present in the United States Certification** – WSDOT suggests certification be obtained during the relocation planning phase or, at the latest, the delivery of the General Notice of Relocation Rights letter.

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 notice/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 and may also have department determinations reviewed or reconsidered before proceeding to an appeal.

5. A statement that informs the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child.

49 CFR 24.203(a)(4)
49 CFR 24.208
WAC 468-100-203(3)(d)
WAC 468-100-208

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 acknowledgment on the General Notice also states the brochure has been provided.

12-5.4.5 Notice of Relocation Eligibility, Entitlements, and 90-Day Assurance

49 CFR 24.203(b)
WAC 468-100-203(2)
49 CFR 24.203(c)
WAC 468-100-203(3)

A. This notice combines 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.

49 CFR 24.203(C)
WAC 468-100-203(3)

i. Ninety-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. Ninety-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. Region RESM will assign a specialist to deliver the prepared lease should the displaced person not be able to move from the acquired property and stays on as a tenant as may be allowed by law after acquisition of the property by WSDOT.

l. The department is not required to restart the 90-Day Assurance clock if the original most comparable replacement dwelling is sold. However, if the original comparable dwelling is no longer available, the department must assure itself that equally comparable dwellings are still available in the same price range.

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. Reestablishment Costs.

c. Fixed Payment Entitlement Amount (In Lieu) if selected in place of actual costs and reestablishment.

d. Ninety-Day Assurance ***(Note: This is a required notice.)***

49 CFR 24.203(C)
WAC 468-100-203(3)

(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. Region RESM will assign a specialist to deliver the prepared lease should the displaced person not be able to move from the acquired property and stays on as a tenant as may be allowed by law after acquisition of the property by WSDOT.

4. Personal Property Only:

a. Actual Move Costs.

(1) Personal Property Move Expenses.

49 CFR 24.203(C)
WAC 468-100-203(3)

b. Ninety-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. Region RESM will assign a specialist to deliver the prepared lease should the displaced person not be able to move from the acquired property and stays on as a tenant as may be allowed by law after acquisition of the property by WSDOT.

D. At the time of delivery of this notice, the Relocation Specialist should also provide the displaced person with a Substitute W-9 and SWV form to complete in accordance with procedures set forth in Chapter 10.

12-5.4.6 Other Notices

A. **Notice of Revised Maximum Price Differential**

1. If an owner occupant does not seek 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. In most cases the specialist can check the market to see if other comparable dwellings are available for sale in the area within the same price range. If there are comparables dwellings available the specialist should supply the list of the properties to the displaced person and inform them in writing their price differential will not be recalculated. 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 available most comparable replacement dwelling 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 available most comparable. See Chapter 13 for the correct RES form. In accordance with Chapter 6, the Relocation Specialist should receive notification from the acquisition specialist 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. In most cases the specialist can check the market to see if other comparable dwellings are available for rent in the area within the same price range. If there are comparables dwellings available the specialist should supply the list of the properties to the displaced person and inform them in writing their rent supplement will not be recalculated. If the rent supplement must be recalculated, a revised notice must be presented to the displaced person.

C. **Notice of Non-Eligibility**

1. If the department withdraws an offer to purchase for any reason, the Relocation Specialist must provide a written letter to all displaced persons associated with the property that were previously provided with a Notice of Relocation Eligibility explaining the person(s) are no longer eligible for relocation assistance.

D. **Relocation Determinations**

1. Any time a relocation determination is made in the eligibility letter or subsequent letter or email that disapproves all or part of a payment claimed, the Relocation Specialist must provide the displaced person a written statement why the claim was denied, cite the appropriate CFR, RCW, and/or WAC and include the appropriate language for review, reconsideration and appeal of the relocation determination. Refer to the language for review, reconsideration and appeal used in the eligibility letter.

49 CFR 24.207(e)
WAC 468-100-207(5)

Appendix 12-2

12-5.4.7 Lawfully Present in the United States Certification

Each person seeking relocation payments or relocation advisory services shall certify that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States of America by reading and signing RES-547. This document must be signed by the displaced person(s) prior to the delivery of the notice of eligibility. WSDOT suggests certification be obtained during the relocation planning phase or, at the latest, the delivery of the General Notice of Relocation Rights letter.

49 CFR 24.208
WAC 468-100-208

49 CFR 24.10
RCW 8.26.085(1)(c)
RCW 34.05
WAC 468-100-010
WAC 468-10
WAC 10-08

12-5.5 Appeals

A. **General (Notice of Denial of Claim)** – 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 a hearing at OAH include: (1) the aggrieved person files a request to have a determination made by the regional staff or specialist regarding relocation assistance reviewed by the RAPM, (2) the aggrieved person files a request to have the RAPM'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.

49 CFR 24.207(e)
WAC 468-100-207(5)

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. If a claim is considered ineligible for reimbursement, the Region is responsible for providing the displaced person a written statement why the claim was ineligible or denied. In doing so, the letter must include language for review/reconsideration of decision/appeal. 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 RAPM, or filing a request for an adjudicative hearing to be heard before an ALJ at OAH. If the displaced person elects to have the RAPM review the determination and then disputes the RAPM's determination, the displaced person has the option of requesting reconsideration of the RAPM'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 RAPM'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.

Appendix 12-2

B. **Preliminary Review by RAPM**

1. **Request for Review by the Displaced Person** – If the displaced person opts to have the RAPM 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 RAPM within 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 or letter.

      (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 RAPM** – The RAPM shall review the WSDOT file and the statement or letter and any supporting documents submitted by the displaced person. The RAPM shall issue a written decision on the displaced person's request for review of the regional staff's determination. If the RAPM finds that the displaced person's request for a review is unclear or insufficient the RAPM 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 RAPM will specify in writing to the displaced person a reasonable 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 time specified by WSDOT, the RAPM 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 RAPM's decision, or requesting an adjudicative hearing to be held before an ALJ at OAH.

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

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

1. The RAPM:

   a. Forwards the request by the displaced person for reconsideration of the RAPM's decision to the Relocation Review Board. The Relocation Review Board (Review Board) consists of the Headquarters Real Estate Services Manager (HQ RESM) or designee, the Regional Administrator of the region where the displacement has occurred or the Regional Administrator's designee (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 RAPM for the RAPM's decision.

   b. Submits to the Review Board as requested by the Relocation Review Board all explanations and documentation relied upon by the RAPM for the RAPM's decision prior to the meeting of the 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 RAPM at least 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 RAPM for the RAPM's decision, may invite the aggrieved displaced person and the RAPM 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 reconsideration provided by the displaced person and the RAPM and renders its decision in writing. This decision may be to affirm or reject the RAPM's decision, 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 RAPM with its written decision. If the decision is an affirmation of the RAPM's decision, in whole or in part, advises the aggrieved displaced person that he or she has 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 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 RAPM 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 RAPM:

a. Notifies the 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 OAH 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 prehearing 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 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 20 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 RAPM 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 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 Specialist is searching for available replacement 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 Specialist 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 Housing and Community Development 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. **A 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 and includes life estates and other ownership interests. These persons should be handled in the same manner as a 180-day owner occupant.

49 CFR 24.2(a)(20)
WAC 468-100-002(20)

2. **A 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. **A 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 if the provisions of Housing of Last Resort apply.

49 CFR 24.403(d)
WAC 468-100-403(4)

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; or a 180-day owner may elect to remain an owner, purchase a dwelling and receive a price differential. 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. A 180-day owner is not eligible for down payment assistance.

49 CFR 24.402
49 CFR 24.402(b)
49 CFR 24.403(c)
WAC 468-100-402
WAC 468-100-402(2)
WAC 468-100-402(3)

2. A 90- to 179-day owner may elect to become a tenant, and receive a rent supplement; or a 90- to 179-day owner may elect to remain an owner, purchase a dwelling and receive down payment assistance. The rent supplement is calculated and subject to the statutory maximum. The replacement housing payment is calculated in the same manner as the rent supplement but subject to a decision by the RAPM and may be increased to within the range of the maximum down payment assistance available to an 180-day.

   Incidental expenses will be paid in addition to the calculated rent supplement if the 90- to 179- day owner elects to use down payment assistance.

49 CFR 24.402(c)
RCW 8.26.055(2)
WAC 468-100-402(3)

3. A 90-day tenant may elect to become an owner, purchase a dwelling and receive down payment assistance. The entire rent supplement, subject to the maximum amount allowable, can be applied to the purchase of the replacement dwelling. Eligible incidental expenses can be paid out of the calculated rent supplement if they elect to use down payment assistance.

4. A less than 90-day occupant (subsequent occupant) may elect to become an owner 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 multifamily occupancy of a single family dwelling or possibly a mobile home and lot situation.

E. **Trust Situations** – In "trust" situations, the acquisition specialist is responsible for obtaining a copy of the trust agreement, including any attachments or exhibits, and any amendments to the trust concerning the property to be acquired by WSDOT and work with Headquarters Title to determine the occupancy status of the displaced persons. It may be necessary to obtain an AG opinion prior to making a determination. This process is addressed in Chapter 6.

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

49 CFR 24.403(b)
WAC 468-100-403(2)

49 CFR 24.2(a)(8)
WAC 468-100-002(8)

Decent, Safe, and Sanitary Standards (DSS) are defined in the regulations. A DSS inspection is required to make sure that to the best of the specialist'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, a Replacement Dwelling Inspection Report (RES-525) plus any photographs or requested supporting documentation must be forwarded to Headquarters. The Relocation Specialist should strongly advise or require the displaced person to obtain a professional home inspection from a qualified inspector per the displaced person's situation as our department's DSS replacement dwelling inspection does not take the place of a professional home inspection. The cost of a professional home inspection is a reimbursable incidental expense. The Relocation Specialist will need to obtain a copy of the report and will need to review it for the DSS items listed on the replacement dwelling inspection report prior to signing off and stating the displaced person qualifies for their replacement housing payment.

Note: If the displaced person elects to move out of state, contact Headquarters Relocation and they will provide you with a contact name and number of the respective state DOT for a complimentary inspection. Also, if a displaced person wants to make an offer to purchase a replacement dwelling and the dwelling and the utilities are not active then WSDOT can make a payment on behalf of the displaced person to the utility company to have the utilities turned on so the specialist can complete the DSS inspection. This is considered an expense incidental to the purchase or lease of a replacement site.

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/city 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 Headquarters.

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, shall have a continuing and adequate supply of potable safe water. If the replacement dwelling has a private well, the specialist must obtain

documentation indicating when the last water test was done or if the dwelling has a community well, the specialist must obtain and attach a copy of the Health Department water test results to the Replacement Dwelling Inspection Report (RES-525).

2. **Kitchen** – Such dwelling, excluding a rental sleeping room, shall have 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. The Relocation Specialist should turn on faucet to make sure there are no leaks.

   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 shall have 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. The Relocation Specialist should turn on furnace to verify working regardless of time of year.

4. **Bathroom Facilities** – Such dwelling unit or rental sleeping room shall have 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, the dwelling shall also provide a lockable bathroom door if such bathroom is separate from the sleeping room. The Relocation Specialist should flush toilet and turn on faucets to make sure there are no leaks.

5. **Electric System** – Such dwelling unit or rental sleeping room shall have an adequate and safe wiring system for lighting and other electrical services. The Relocation Specialist should verify all outlets and light switches have plate covers.

6. **Structurally Sound** – Each building used for dwelling or rental sleeping room purposes shall be structurally sound, weather-tight, in good repair, and adequately maintained. The Relocation Specialist should make sure there are no broken windows, broken locks, rotten stairs, etc.

7. **Egress** – Each building used for dwelling or rental sleeping room purposes shall have a safe, unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multidwelling building has access either directly or through a common corridor to

a means of egress to open space at ground level. In multidwelling buildings of three stories or more, the common corridor on each story has at least two means of egress. The Relocation Specialist should open windows to make sure they are operational.

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 specialist should identify ADA items such as grab bars in the bathroom, ramp in lieu of stairs, etc., 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. Reasonable and necessary costs of approved ADA items are in addition to the replacement housing payment and move costs and considered 100 percent reimbursable.

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 RAPM 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 DSS inspection on the replacement dwelling is to determine eligibility 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 Specialist should advise 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 Expenses.")

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 statutory time period and is required to obtain a professional home inspection of the replacement dwelling by a qualified home inspector.

e. For the purposes of d. above, a dwelling is considered to be purchased by the displaced owner when:

49 CFR 24.403(c)
WAC 468-100-403(3)

(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 such as meals, medication, cleaning, laundry service; 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 DSS deficiencies are not considered in qualifying for replacement housing payments; or

(4) The displaced owner contracts for the construction of a new decent, safe, and sanitary dwelling on a site which the displaced person owns or acquires. Reimbursement is limited to only those costs necessary to construct a dwelling comparable to the one acquired. The cost of adding new features to bring the cost up to the maximum replacement housing amount is not eligible for reimbursement.

B. Price Differential

49 CFR 24.401(c)
WAC 468-100-401(3)

1. Amount of Payment

a. The price differential is the calculated amount of any difference between the acquisition cost 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 (RES-542) and Housing Comparison Work Sheet (RES-541).

49 CFR 24.401(b)
RCW 8.26.045
WAC 468-100-401(2)

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.

49 CFR 24.401(c)(2)
WAC 468-100-401(3)(b)

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 Headquarters 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 cannot exceed the computed price differential payment that they would have received as a 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 their entire 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 a fractional interest owner occupant a payment that is more than what the agency would pay a full interest owner occupant.

   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 RAPM. 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. **Additional Rules Governing Replacement Housing Payments**

49 CFR 24.403(a)
WAC 468-100-403(1)

   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 Specialist in the "Remarks" section of the Housing Comparison Work Sheet explains the reasons leading to the use of less than three comparables.

b. **Carve Out** – This term is commonly used to describe the method for determining what portion of property occupied by a residential owner of 180 days or more is to be used in computing the price differential payment. The purpose of a carve out is to level the playing field for the displaced person seeking a comparable replacement dwelling. It takes into consideration a displaced person who is situated on a site either larger than typical for residential purposes or whose property is actually occupied by or used for other purposes. The Relocation Specialist will need to first identify if a carve out is warranted based on the following situations:

FHWA Non-Regulatory Supplement #13

Appendix 12-9

(1) **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, or a swimming pool, the value of such items is subtracted or carved out as defined in Section 12-4.1.D from the acquisition cost of the displacement dwelling.

Appendix 12-10

FHWA FAQ #88

(2) **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. Additionally, if an MIDP is to be calculated, the lien on the replacement property must be pro-rated in the same manner as the residential carve out.

If a carve out is warranted, the Relocation Specialist will need to establish what constitutes a tract that is "typical in size for residential purposes" in the area. The specialist will apply the tract size that is derived from what was determined to be typical in size for residential purposes to the displacement site and extract the acquisition price that represents a property that is typical for residential purposes. The area used for residential purposes includes a pro-rata portion of the land and on-site improvements.

If the replacement property is on a larger than typical site, or is a mixed use property, only that portion of the property used for residential purposes may be used in calculating the actual price differential payment.

c. **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 and agreed upon by the displacees, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. In this case, the specialist would compute one replacement housing payment and use the predetermined 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 DSS living facilities. The specialist's diary should be sufficiently documented to support the decision.

d. **Remainder Offer** – The requirements for computing a replacement housing payment of a partial acquisition with a remaining uneconomic remnant differs from a partial acquisition with a remaining buildable lot.

(1) **Uneconomic Remnant (Buildable vs. Unbuildable)** – The acquiring agency is required to offer to purchase the uneconomic remnant.

(a) **Buildable** – The value of the remnant is used in the RHP computation regardless of whether or not the owner elects to sell to the acquiring agency.

(b) **Unbuildable** – The value of the remnant cannot be used in the actual RHP computation if the owner does not elect to sell to the acquiring agency. However, if the owner does elect to sell the uneconomic remnant its value is included in the actual RHP computation.

(2) **Remaining Buildable Lot Not Considered Uneconomic** – The acquiring agency may offer to purchase a remaining buildable lot. Its value may be included in the RHP computation regardless of the owner's rejection or acceptance of the offer. However, if the agency does not offer to purchase, the value of the remainder may not be used in the actual RHP computation.

e. **Computing an RHP When a Higher and Better Use is Other than Residential** – In computing a replacement housing payment for an owner occupant whose residential property to be acquired is appraised for a higher and better use, the acquisition cost of the displacement dwelling used in the computation is the value of the dwelling 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 used for acquisition.

49 CFR 24.401(e)
WAC 468-100-401(5)

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. These regulations pertain solely to incidental expenses in connection with a displaced owner's acquisition of a replacement dwelling. The Relocation Specialist 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 specialist should prepare the Incidental Expense Work Sheet, Entitlement Instructions, and process a warrant once the preliminary closing statement is received. In order to prevent an overpayment of incidental expenses it is recommended that the specialist reduce the relocation assistance voucher by $50-$100 based on the preliminary HUD statement. See Chapter 13 for RES forms. Once the loan closes the specialist is required to perform a reconciliation of the final closing statement to make sure all funds were applied correctly and send it and supporting documentation to Headquarters. If an overpayment is discovered, the specialist will inform the displaced person of the overpayment and request that the funds be paid back to WSDOT or if they are still due relocation funds that the overpayment be reduced on their next relocation assistance voucher. If an underpayment is discovered the specialist will inform the displaced person of the underpayment and will prepare a relocation assistance voucher for reimbursement.

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 Home Inspection fees – The displaced person needs to be advised that they will need to obtain a professional home inspection of their selected replacement dwelling prior to being eligible to receive their replacement housing payment. Costs associated with the home inspection are fully reimbursed by WSDOT. The professional home inspection must be ordered by the displaced person and a copy provided to WSDOT for our records. The home inspection report will be attached to the DSS Replacement Dwelling Inspection Report.

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.

4. **Partial Ownership** – If incidental expenses are incurred for the purchase of a replacement property they must be pro-rated in the same manner as the ownership of the displacement dwelling.

49 CFR 24.401(d)
WAC 468-100-401(4)

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, (i.e., equity line of credit) on the displacement dwelling for at least 180 days prior to the initiation of negotiations. The specialist 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. If the unpaid mortgage balance(s) has a variable interest rate (ARM), the calculation should be based on the interest rate in effect on the date of acquisition. 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. Specialist 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 specialist 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 can be verified using an MIDP software program. Contact Headquarters Relocation for more information.

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

7. **Other Loan Programs** – Contact Headquarters Relocation for guidance (RES-513).

8. **Partial Ownership** – If an MIDP is to be calculated on the replacement property it must be pro-rated in the same manner as the ownership of the displacement dwelling.

E. **Total Payment** – The total of the payments for purchase of replacement housing (Price Differential, increased interest, and incidental purchase expenses) cannot statutorily exceed $22,500 under this section. If the amount exceeds this maximum, housing of last resort is required (see Section 12-6.4).

F. **Short Sale Bank/REO or HUD Home Purchase** – If a 180-day owner occupant elects to purchase a short sale or a HUD home as their replacement dwelling, the home must pass the DSS inspection prior to the release of any replacement housing payment. In addition, if they choose to purchase a bank/REO property or even a short sale and it takes longer than expected and the ad date is approaching, they could be required to move once their 90-day assurance expires and the acquiring agency will

not approve costs associated with a double move (i.e., storage, per diem, temporary housing).

49 CFR 24.401(f)
WAC 468-100-401(6)

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 (RES-543) and the Housing Comparison Work Sheet (RES-541).

49 CFR 24.402
WAC 468-100-402

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 amount of down payment assistance (the amount of which is based on the calculation for a rent supplement) cannot exceed the amount of a price differential if the owner had qualified as a 180-day owner.

   3. Incidental expenses will be handled as they are for a 180-day owner and will be paid in addition to the down payment assistance calculated as a rent supplement as set forth above. Eligible incidental expenses are identified under the section titled Replacement Housing Payments for 180-Day Owner Who Purchases.

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 Rent Supplement Payment not to exceed $5,250.

12-6.3.3 90-Day Tenants

49 CFR 24.402
RCW 8.26.055
WAC 468-100-402

12-6.3.3.1 Rent Supplement for a 90-Day Tenant Who Rents

49 CFR 24.402(a)
WAC 468-100-402(1)

A. **Eligibility** – 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 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**

49 CFR 24.402(b)
RCW 8.26.055
WAC 468-100-402(2)

1. **Amount of Payment** – A maximum rent supplement payment is calculated using a Rent Supplement Report (RES-543) and Housing Comparison Work Sheet (RES-541). 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.

49 CFR 24.2(a)(30)
WAC 468-100-002(30)

2. **Utilities Costs** – Utilities include electricity, gas, other heating and cooking fuels, water, and sewer. Garbage is not considered a utility and is not included in the rent supplement computation. The Relocation Specialist 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 and can be found at www.awha.org/contact.html. 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 Work Sheet. 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.

49 CFR 24.402(b)(2)
WAC 468-100-402(2)(b)

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 person'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 (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 and persons considered 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) of income to support monthly income figures. Social security is a government program that is considered income by federal law. Therefore, even though the benefits are for dependent children, it should be considered as family income used to support the disabled children, not income received or earned by dependent children. If tenant does not provide income verification as requested by the specialist or agency, or provides inaccurate documentation, the rent supplement should be calculated by subtracting the actual rent and utilities at the acquired dwelling from the rent and utilities at the replacement dwelling (rent to rent).

   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 Specialist makes a decent, safe, and sanitary inspection, confirms the new rental amount, and computes the rent supplement based upon the new rental amount. The claim is then processed in accordance with this manual. An additional DSS 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.

49 CFR 24.403(e)
WAC 468-100-403(5)

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

49 CFR 24.402(c)
RCW 8.26.055(2)
WAC 468-100-402(3)

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. The displaced person needs to be advised that WSDOT strongly advises them to obtain a professional home inspection of their selected replacement dwelling. Costs associated with the home inspection are reimbursed by WSDOT as part of the displaced person's down payment assistance entitlement. The professional home inspection must be ordered by the displaced person and a copy provided to WSDOT for our records. The home inspection report will be attached to the DSS Replacement Dwelling Inspection Report. In the event the displaced person chooses not to have a home inspection, the Relocation Specialist will notify the displaced person in writing regarding the risks associated with not obtaining a professional home inspection. This letter should be sent via CERTIFIED mail. Incidental expenses are inclusive of the

49 CFR 24.402(c)(2)
WAC 468-100-402(3)(b)

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 Specialist should obtain a preliminary closing statement or a good faith estimate from the lender or the escrow company. The specialist 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 specialist is required to perform a reconciliation of the final closing statement to make sure all funds were applied correctly and send it and supporting documentation to Headquarters. If an overpayment is discovered, the specialist will inform the displaced person of the overpayment and request that the funds be paid back to WSDOT or if they are still due funds from WSDOT that the incidental overpayment amount will be reduced on their next payment voucher. If an underpayment is discovered the specialist will inform the displaced person of the underpayment and will prepare a relocation assistance voucher for reimbursement.

C. **Short Sale Bank/REO or HUD Home Purchase** – If a 90-day occupant elects to purchase a short sale or a HUD home as their replacement dwelling, the home must pass the DSS inspection prior to the release of any replacement housing payment. In addition, if they choose to purchase a bank/REO property or even a short sale and it takes longer than expected and the ad date is approaching, they could be required to move once their 90-day assurance expires and the acquiring agency will not approve costs associated with a double move (i.e., storage, per diem, temporary housing).

49 CFR 24.403(d)
WAC 468-100-403(4)

12-6.3.4 Short-Term Occupants (Less than 90-Day Occupants) and Subsequent Occupants Occupancy Requirements

Short-term occupants are persons who have been in occupancy less than 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.

49 CFR 24.404
WAC 468-100-404

12-6.4 Housing of Last Resort

12-6.4.1 Applicability

49 CFR 24.404(b)
WAC 468-100-404(2)

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:

49 CFR 24.404(a)
WAC 468-100-404(1)

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

49 CFR 24.404(c)
WAC 468-100-404(3)

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 DSS 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 RAPM.

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 DSS 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 specialist's correlation and conclusions which is submitted with the Housing Comparison Work Sheet to Headquarters 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 not be a last resort payment while the amount in excess of the limits would be shown as last resort.

49 CFR 24.301(b)
RCW 8.26.035(2)
WAC 468-100-301(2)

12-6.5 Residential Moving Entitlements

A "displaced person" is entitled to receive a payment for the move of their 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 Headquarters 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 supported by receipted bills for labor and equipment. Self moves based on the lower of two bids or estimates are not eligible for reimbursement.

49 CFR 24.301(1)
WAC 468-100-301(1)

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 Specialist 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 specialist 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 nonresidential displacements.

12-6.5.1 Self Move, Fixed Residential Moving Cost Schedule

49 CFR 24.302
RCW 8.26.035(1)
RCW 8.26.035(2)
WAC 468-100-302

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 Owns Furnishings	Occupant Does Not Own Furnishings
1	$600	$300
2	$800	$350
3	$1,000	$400
Additional Rooms	$200 each	$50 each
Dislocation Allowance =	$400 and is included in the first room count above for occupants who owns furnishings	

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 specialist 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 is documented by the Relocation Specialist 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 nonoperating vehicles such as boats, trailers, 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. Payment is limited to $100 if a person has minimal possessions and occupies a dormitory style room or a person's residential move is performed by an agency at no cost to the person.

E. **Authorization** – Before the move, the Relocation Specialist 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 Specialist 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 specialist 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 specialist 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 Specialist 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 Specialist 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 specialist 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 RAPM 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 Headquarters 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 Specialist will advise the displaced person that any item considered to be irreplaceable or of exceptional value should be identified. The Relocation Specialist should also obtain from the displaced person a value of the personal property to be moved. Standard insurance amount is $75,000. If value of the property is greater than $75,000, then a copy of the displaced person's insurance policy is required. 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 RAPM describing the items requiring special handling is required along with the specialist's recommendation on a moving method. ***Note:*** Move is limited to a 50-mile radius. If move is

greater than 50 miles the displaced person is responsible for the costs associated with the excess mileage. The moving company will charge the displaced person directly.

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 RAPM 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.

49 CFR 24.207(a)
WAC 468-100-207(1)

12-6.6 Claiming Relocation Entitlements

12-6.6.1 Replacement Housing Claims

49 CFR 24.207(d)
WAC 468-100-207(4)

A. **Time for Filing Requirements**

1. A 180-day owner must purchase or rent and occupy a DSS 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. A 90- to 179-day owner must purchase or rent and occupy a DSS replacement dwelling 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. A 90-day, less than 90-day, or subsequent tenant must purchase or rent and occupy DSS replacement dwelling within one year from the date the person moves from displacement dwelling.

B. Disbursement of Replacement Housing Payments

49 CFR 24.402(b)(3)
WAC 468-100-402(2)(c)

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 Specialist 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).

         (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). Contact Headquarters 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). 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). In this case, the relocation assistance voucher must be made out to both the displaced owner and the care facility. Contact Headquarters 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 in the sixth month.

49 CFR 24.402(c)
WAC 468-100-402(3)

   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 Specialist 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 Specialist completes a DSS inspection to determine if replacement dwelling meets minimum standards to receive replacement housing payment.

D. The Relocation Specialist 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 Specialist completes the actual calculation portion of the Price Differential Report or Rent Supplement Report, obtains necessary signature on form and sends to Headquarters 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 specialist should consult with the acquisition specialist 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 specialist 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:

- MIDP
- Incidental Closing Expenses

The specialist must perform a DSS inspection on the replacement dwelling prior to making any of the above payments.

F. The Relocation Specialist 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 Specialist by the escrow company in the form of a HUD statement (preliminary closing statement).

G. The Relocation Specialist works with the displaced person and the lender when necessary to calculate the Mortgage Interest Differential Payment (MIDP) (RES-513), if any, prior to closing.

H. The Relocation Specialist 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 (RES-537). The Relocation Specialist should also obtain a Substitute W-9 and SWV form from the payee listed on the relocation assistance voucher, i.e., displaced person or vendor and submit to their region accounting in order to obtain the SWV number. These forms should be obtained in accordance with the procedures set forth in Chapter 10.

I. The Relocation Specialist submits all claims to Headquarters for approval and payment.

12-6.6.2 Moving Claims

A. The Relocation Specialist 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 (RES-540).

2. For a residential displacement, if a commercial move is chosen, the Relocation Specialist should obtain from the displaced person a value for the personal property to be moved. If the amount of the value exceeds $75,000 then a copy of their current insurance policy is required, and all parties should sign the Move Expense Agreement and submit it to Headquarters for ordering a mover in accordance with the GA contract. In some instances the commercial move contract does not allow for the move of hazardous materials (i.e., household cleaning supplies, gas, solvents, paints), so the Relocation Specialist and displaced person should agree on a reasonable amount to move such items.

B. The Relocation Specialist 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 specialist should document all monitoring activities in the diary.

C. When the move is complete, the Relocation Specialist verifies that all personal property is removed from displacement property and verified to be at the replacement property and completes the Vacate Inspection (RES-517). Verification can include photos of the vacated site and photos of the replacement site. The Relocation Specialist 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 Specialist 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 specialist 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 Specialist should also obtain a Substitute W-9 and SWV form from the payee listed on the relocation assistance voucher, i.e., displaced person or vendor. These forms should be obtained in accordance with the procedures set forth in Chapter 10.

D. In case of a commercial move, the Relocation Specialist verifies that the move is complete.

1. If personal property is not removed and not abandoned, the Relocation Specialist should consult with Headquarters 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 specialist 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 Specialist 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. Abandonment of personal property should be handled as outlined in the section of this chapter titled "Abandonment of Personal Property."

3. When the move is complete, invoices from the movers will be received in Headquarters and processed for direct payment to the movers. The Relocation Specialist will need to obtain a Substitute W-9 and SWV form from the mover in accordance with the procedures set forth in Chapter 10.

E. The Relocation Specialist 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 Specialist 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 specialist 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 specialist should not encourage items to be left on the property and should advise the displaced person that they will be financially responsible for the removal of the items. In the rare instance personal property is left at the displacement property, the Relocation Specialist will need to obtain region manager's 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 cannot claim payment for moving said abandoned property. Once approval is obtained, the moving expense attributable to the abandoned property will be deducted from the displaced person's final move payment. (Refer to Chapter 13 for the RES form.) The Relocation Specialist 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 according to procedures set forth in Chapter 11. If the property is clear at the vacate inspection, the specialist does not need to 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 RAPM may authorize advance payment of relocation claims.

49 CFR 24.207(c)
RCW 8.26.085(1)(b)
WAC 468-100-207(3)

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 Specialist must also clearly document in the diary that the payment is being made at the request of the displaced person. The Relocation Specialist should obtain a Substitute W-9 and SWV 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.

49 CFR 24.207(c)
RCW 8.26.085(1)(b)
WAC 468-100-207(3)

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 RAPM, acting upon a written request from the displaced person or region Relocation Specialist. The amount of any proposed advance payment should not exceed 25 percent of the approved move amount as shown on the Moving Expense Agreement (RES-540), 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 Specialist provides the displaced person with appropriate forms for making the claim and secures necessary documentation from the displaced person, which includes a Substitute W-9 and SWV form.

B. The completed Substitute W-9 and SWV form are transmitted to region accounting to obtain a SWV number. The claim (voucher) and supporting documentation is sent to Headquarters for final approval and payment processing.

C. Upon final approval by Headquarters, the RAPM authorizes payment and the voucher is forwarded to the accounting section for processing and generation of the payment (warrant).

D. Both the region and Headquarters should monitor partial and advanced payments to assure that the displaced person does not receive payment in excess of their maximum entitlements.

E. **Coding** – Relocation Assistance Vouchers are coded based on the type of relocation payment. The specialist must select the appropriate coding from the object codes and definition chart, i.e., residential replacement housing payments or moving expenses, non-residential reestablishment or moving expenses, and personal property only moving expenses.

Appendix 12-3

12-7 Nonresidential 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 nonresidential 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 nonresidential related personal property from a non owner occupied residential property.

4. One move, except where it is determined by the RAPM that it is in the public interest to authorize more than one move.

B. A nonresidential 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.

49 CFR 24.305
RCW 8.26.035(3)
WAC 468-100-304

Appendix 12-11

C. Determining the Number of Businesses Displaced by Project – It is acceptable to apply the considerations discussed in the Fixed Payment section to determine the number of business that are displaced by a public project. It is important to remember that while multiple businesses can operate at a displacement site there is a possibility that there may only be one displacement depending on the factors for determining the number of businesses.

In determining whether two or more business activities constitute a single business or two or more separate businesses, 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.

D. In order to be eligible for reestablishment payments the Relocation Specialist must view a copy of the most recent tax return filed and document in their diary that it is an operational business, farm or NPO.

A landlord must provide a certified copy of their most recent year's tax return including the attached Schedule E. The tax return must be submitted to Headquarters for verification. This process needs to be completed before a Notice of Eligibility, Entitlements and 90-Day Assurance is delivered.

Certification of the tax return will need to be completed by the individual who prepared the return, i.e., accountant, attorney, business owner. Once the tax return is reviewed by Headquarters, the tax return will be destroyed or mailed back to the region in order to return to the displacee. The statement can be as simple as the following: "I hereby certify that this tax return is a true and correct copy of my filed return."

12-7.2 Nonresidential Moving Payments

49 CFR 24.301(d)
49 CFR 24.301(g)
RCW 8.26.035
WAC 468-100-301(4)
WAC 468-100-301(7)

12-7.2.1 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) with the appraiser as described in Section 12-4.2 Relocation Planning. The specialist should be able to consult the Realty vs. Personalty Report (RES-217) in the appraisal for a list of those items determined to be real property or personal property.

49 CFR 24.301(g)
RCW 8.26.035
WAC 468-100-301(7)

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 RAPM for preapproval.
5. Insurance for the replacement value of the personal property during the move and necessary storage. The Relocation Specialist must obtain a copy of the insurance policy from the displaced business showing the amount of insurance coverage they have on their personal property at the displacement location. This amount will be used by the specialist when preparing the Request for Proposal (RFP) to obtain move cost estimates from commercial movers.
6. Any license, permit, or certification required or associated with the operation of the business at the replacement site, which the displaced business had at the displacement location if deemed reasonable and necessary. 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 move 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 at least two Scope of Work bids as outlined in Section 12-5 Advisory Services. The displaced business must hire a professional in order to be eligible for reimbursement. However, in some instances the displaced business can apply for a waiver and request that their displaced business be reimbursed for their work.

Appendix 12-12

   a. To apply for a waiver the displaced business must submit to WSDOT in writing a request to perform the professional services themselves. The request must include the following:

      (1) Business qualifications.

      (2) Reasons for wanting to complete the work instead of hiring an outside professional.

      (3) Hourly rate.

      (4) Scope of work – not to exceed the amount stated in the proposal submitted.

9. Relettering signs and replacing printed materials made obsolete by the move.

   a. The specialist must work with the displaced business to complete an inventory (see Chapter 13 for appropriate RES form) of those items such as letterhead, business cards, checks that become obsolete due to the displaced business's change of address to that of the replacement location. This should be done no later than the day of the move and is recommended prior to the commencement of move. The specialist must 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. Once the items have been reprinted, the specialist must obtain invoices and verify with the printing company the minimum print. The specialist is required to obtain original or copies of each obsolete item that will be reprinted. It is recommended to give the business owner a large manila envelope or folder so they can collect samples of each obsolete item. Discuss with the displaced business where stickers with new address/phone numbers, etc., may be more appropriate than reprinting. Go Green!

b. Costs incurred by a displaced business to notify its customers of its move to a replacement site, which may include but are 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 actual moving expenses and considered as other moving related expenses that are not listed as ineligible.

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. Specialist 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.

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 contained 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, 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 dispose, 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 ordinance that precludes them from moving the materials to the replacement site, then the costs of transport and disposal would be eligible. Such code or ordinance 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.

17. **Move Supervision** – Supervision expenses include reimbursement for the time necessary to supervise the move. Supervision is sometimes necessary to direct the placement of personal property and to facilitate the moving process. The time to supervise the move (does not include planning) is limited to no more than the length of time it would take a

professional mover to complete the actual physical move and is based on reasonable salary or earnings and must be preapproved by WSDOT prior to the initiation of the move. All expenses must be actual, reasonable, and necessary as determined by the agency. If the move is considered complex and a move planner has been approved, it may be reasonable to reimburse time spent by the move planner to supervise the move. The specialist will need to ensure there is no duplication of payment when there is more than one person supervising the move.

49 CFR 24.301(d)
RCW 8.26.035(1)
WAC 468-100-301(4)

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:

Appendix 12-6

1. **Commercial Move** – A commercial move is based on the lowest acceptable bid or estimate prepared by a commercial mover. WSDOT prefers to obtain three bids as it can be difficult to determine the lowest acceptable bid if only two bids are obtained and the dollar figures are too far apart. If the specialist only obtains two bids and there is a question, the specialist will be required to obtain a third bid. WSDOT will reimburse the bidder a reasonable amount to prepare requested bids. The specialist 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. The specialist must obtain written concurrence from the displaced business owner for the Request for Proposal and Moving Specifications (RES-521), and inventory prior to the solicitation of move proposals.

   a. The displaced person can request that WSDOT provide a commercial mover and pay that mover directly. The displaced person must indicate this option on the Moving Expense Agreement and cooperate with WSDOT by preparing a photo and written inventory, site drawing/layout, and working with the Relocation Specialist to prepare a Request for Proposal and Moving Specifications (RES-521).

   b. Based on the inventory, moving specification, and any other information available, the Relocation Specialist 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 RAPM for review/approval.

2. **Self Move, Negotiated Cost** – A self move payment may be based on the lowest acceptable bid or estimate prepared by a commercial mover. WSDOT prefers to obtain three bids as it can be difficult to determine the lowest acceptable bid if only two bids are obtained and the dollar figures are too far apart. If the specialist only obtains two bids and there is a question, the specialist will be required to obtain a third bid. If the move is considered small, uncomplicated, and estimated move costs are less than $5,000 a qualified Agency staff person can prepare a "Specialist Move Estimate." Payment for a low cost or uncomplicated move may be based on a single bid or estimate. The specialist must provide a recommendation for approval to Headquarters requesting the use of a single bid or estimate.

    a. The displaced person 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 Specialist in the preparation of a Request for Proposal and Moving Specification. The Relocation Specialist then obtains three bids from qualified commercial movers. The region submits the bids with all supporting information to the RAPM 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 person may not exceed the amount of the lowest acceptable bid (excluding sales tax and replacement value insurance (RVI)) submitted by a commercial mover. The Relocation Specialist 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. For a displaced person to be reimbursed for RVI they will need to supply copies of the insurance policy and proof of payment.

    c. In cases where the move cost appears to be $5,000 or less and the move is considered small and uncomplicated, the Relocation Specialist can expedite the process and develop a specialist move cost estimate in accordance with Section 12-7.4. The displaced business, with the help of the Relocation Specialist, will prepare an inventory of the items to be moved. The region will submit the move cost estimate with all supporting documentation to the RAPM 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 specialist from obtaining move bids or estimates.

a. If bids cannot be obtained due to time constraints or unreasonable circumstances, 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, including time sheets or account for the hours of the people who performed the move. The specialist 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 specialist may have to provide both the photo and written inventory to a commercial mover and ask for an estimate.

b. Hourly rates for labor should be supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to their employees who perform move activities. Equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover. These hourly rates can be obtained from local movers.

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 Specialist and the commercial mover to ensure that all parties have a clear understanding of the respective roles and responsibilities. The Relocation Specialist 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.

49 CFR 24.301(i)
WAC 468-100-301(9)

5. **Move Monitoring** – The Relocation Specialist is responsible for monitoring the move of the displaced business. This can be accomplished by an on site visit or phone call (for uncomplicated moves) the day the move begins. This will ensure the personalty is moved to the replacement site, will help to support the accounting of 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 specialist should document all monitoring activities in the diary in addition to move progress photos.

6. Upon completion of the move, the Relocation Specialist 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 specialist 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. A post move inventory describes those personal property items identified as part of the relocation and could be addressed in a list, a comment on the vacate inspection, a diary entry, or an e-mail to the reviewer, etc. The specialist needs to identify that all personal property was moved. This can be accomplished by comparing the premove inventory to the post move inventory. The results should be noted in the diary and the specialist should prepare a written/photo list along with the vacate inspection form.

12-7.2.1.1 Actual Direct Losses of Tangible Personal Property (DLT)

49 CFR 24.301(g)(14)
WAC 468-100-301(7)(n)

FHWA FAQ #64

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.)

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. Reasonable costs incurred in attempting to sell an item(s) that is not relocated is reimbursable as a separate move cost and is not included in the DLT calculation.

C. **Determination of Expenses and Losses (Specialist Recommendation)** – 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 RAPM.

D. **Losses Due to Unsuccessful Sale and Transfer of Ownership** – Whenever a bona fide sale is not completed because no offer is received for the eligible item and ownership of the item is transferred to the department, 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.

Appendix 12-5

49 CFR 24.301(j)
WAC 468-100-301(10)

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. The abandoned personal property is transferred to the department via Transfer of Ownership (RES-548).

F. The cost for removal of abandoned personal property through the transfer of ownership will not be considered as an offsetting charge against other payments that the displaced person is entitled to receive.

49 CFR 24.301(g)(16)
WAC 468-100-301(7)(p)

FHWA FAQ #65

12-7.2.1.2 Substitute Personal Property (SPP)

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. 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.

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.

49 CFR 24.301(j)
WAC 468-100-301(10)

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. The abandoned personal property is transferred to the department via Transfer of Ownership (RES-548).

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.

12-7.2.1.3 Calculating the Cost to Move an Obsolete Item When an Actual Estimate Cannot be Obtained – SPP

First, the Relocation Specialist will need to determine whether the business will move and replace the item, or will either discontinue the business or continue but not replace the item in question. The regulatory references for these two options are 49 CFR 24.301(g)(14) for actual direct loss of tangible personal property (first option) and 49 CFR 24.301(g)(16) for substitute personal property (the second option). The reason why it is necessary to determine which option applies, for purpose of establishing the "cost to move," is to determine whether the "cost to move" will include the costs to reinstall/reconnect.

A. If the business discontinues or will not replace the item at the replacement site, installation/reconnection costs will not be included in the "cost to move" if the equipment is either in storage or otherwise not being used at the displacement site. However, if the equipment is installed at the displacement site then the installation/reconnection costs will be included in the "cost to move." In either case, the cost of code upgrades shall not be included in the cost to move.

B. If the business will continue and plans to replace the item at the new site, the "cost to move" will include the costs to the business for installation/reconnection of the substitute personal property.

   Once this determination has been made, the "cost to move" will include the following:

   1. Disconnection from displacement site.
   2. Physical move to replacement site.
   3. Cost to install/reconnect at replacement site if the item is installed at the displacement site.

   If the item that is proposed to be replaced with substitute personal property is obsolete or in a condition where it cannot reasonably be moved and/or installed at the replacement site, the agency should take the following actions:

1. Obtain an estimate of the cost to remove the item from the displacement site (including disconnect) and move it as if it was intact and capable of being moved. For example, if a storage tank or water heater at the displacement site is considered to be personal property rather than real property, but its age and condition are such that a mover or specialist considers it not capable of being moved intact, have the estimator(s) provide a price to move as if it was in movable condition.
2. If the technology for the item in question has changed and it would not be adaptable for installation or reconnection at the replacement site, one option would be to obtain an estimate to install/reconnect a substitute item that most nearly matches the item in question but conforms to current technology.

Once estimates have been obtained, the calculation would be done consistent with 49 CFR 24.301(g)(16).

49 CFR 24.301(h)
WAC 468-100-301(8)

12-7.2.2 Ineligible Moving and Related 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 retained salvage rights.

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 reestablishment 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

49 CFR 24.304
RCW 8.26.035(1)(d)
WAC 468-100-306

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 reestablishing their operations at a replacement location. These reestablishment expenses must be actual, reasonable, and necessary as determined by the department.

Claims for reestablishment expenses must be considered by WSDOT to be "actual, 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 reestablishment of your business in conformance with the requirements of the Uniform Act. The test for reestablishment 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.

General guidelines for the Relocation Specialist to follow:

- Market test – determine the availability of suitable replacement sites that are functional and similar to the subject site.
- Is the claim submitted typical of the area or nature of the business operation?
- Is it really needed in order to carry out the move of the business?
- Is the business reestablishing at a level greater than what they currently operate?
- What is the size of the building where they currently conduct business?
- When dealing with redecoration expenses, the specialist will need to determine if the items in question are serviceable or if it can be fixed or repaired. If it can be fixed or repaired then the cost of the repair or service would be reimbursable as a reestablishment expense. It the item cannot be repaired or serviced and it meets the test of reasonable and necessary then we have the flexibility to replace the item as a reestablishment expense.

It is important to remember that such expenses should be necessary to reestablish the present operation, not to improve it, not to allow it to enter new markets, or do those things that the operation should have done itself or wanted to do at the displacement location. Displacement provides an excellent opportunity for an operation to do all of those things itself, but they should not be accomplished with public funds. In the situation where a displaced business selects a larger replacement site or a betterment, these tests allow the specialist to set a reasonable threshold for reimbursement based on the size or quality of the displacement site.

If the displaced business received a payment through acquisition, say, as a "cost-to-cure," reestablishment cannot be used as this would represent a duplication of payment. However, if deemed reasonable and necessary, all or part of the difference between the actual cost and what was previously paid as a cost to cure by the agency or any other funds paid by another agency for that purpose could be an eligible reestablishment expense.

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The Relocation Specialist is not expected to make an exhaustive search for other such payments; the specialist is only required to avoid creating a duplication based on their knowledge at the time the payment is made.

The Relocation Specialist must obtain a copy of the displacement site lease and the replacement site lease. Leases may be used for determining level of reimbursement for increased costs, tenant improvements and/or modifications to the replacement site. Many times a landlord will participate in or pay for tenant improvements and in order to avoid duplication of payment, we need verification of who is paying for what.

49 CFR 24.304(a)
WAC 468-100-306(1)

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. Permits associated with modifications to the replacement are reimbursable.

   a. The Relocation Specialist must understand the difference between what constitutes an improvement (not required by code) to the replacement property which is considered not eligible for reimbursement versus what constitutes a modification to the replacement property which is considered a reimbursable reestablishment expense. The following definitions are for purposes of determining payment of relocation benefits:

      (1) Improvement – that which the displacement site did not have and which adds to, instead of replaces, the functionality of the business operation.

      (2) Modification – that which the displacement site had and which replaces the functionality of the business operation.

Scenario #1
Scenario #2
Scenario #3
Scenario #4
Scenario #5

   b. Scenarios are listed in Appendix 12-1 to discuss eligibility of such items. The WSDOT specialist needs to have, regardless of the scenarios listed, a copy of the existing lease at the displacement site (if there is one) and a copy of the appraisal which distinguishes between real and personal property. This information is necessary to determine who owns the property in question and to determine

how it was handled in the appraisal process. It is possible for improvements to be considered real property, personal property or trade fixtures which can result in different determinations. Each reimbursement decision must be based on the circumstances surrounding the individual details of the relocation, i.e., case-by-case basis.

In all cases, we must avoid duplication of payment as described in 49 CFR 24.3. No person shall receive any payment under this part if that person receives a payment under federal, state, local law, or insurance proceeds which is determined by the Agency to have the same purpose and effect as such payment under this part. So, if the displaced person was compensated for the improvement in the acquisition of the displacement site and then submits a claim under reestablishment expenses for the same or similar improvement at the replacement site, it is not eligible for reimbursement because they have already been paid for the item. Per 49 CFR 24.304(b)(1) a claim for a capital asset (improvement) under reestablishment expenses at the replacement site is not eligible for reimbursement.

c. If a suitable replacement structure is not available and it is determined necessary for the owner of a small business, farm, or nonprofit organization to purchase or lease vacant property and build a structure to conduct business, adding the structure would generally not be an eligible reimbursement. Modifications to the structure to accommodate the business operation may be eligible for reimbursement. These modifications shall not include costs of substantial improvements normally found in a finished structure such as air conditioning and heating, septic or sewer service, well or water service, and walls and ceilings except as modifications specific to the nature of the displaced business. Site preparation may be included in modification costs.

FHWA FAQ #76

When a replacement property already contains a structure, costs for structure modifications necessary to accommodate the business operation (e.g., moving walls, changing doors, installing lighting) are eligible. An exception occurs if specific modifications are required to promote the proper operation of the relocated personalty (these costs are included as moving costs under Allowable Moving Expenses – Non-Residential, Removal, and Reinstallation. Reasonable and necessary are the determining criteria.

FHWA FAQ #77

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. This includes 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, which are eligible reestablishment expenses. This may include newspaper ads, flyers, or other forms of media advertising as long as the advertising focuses on 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. The intent of this regulation is to pay for expenses associated with advertising the replacement location and not the general business. Promotional items such as pens, pencils, tee shirts, key chains, etc., are seen as general advertising of the business and not considered reimbursable under reestablishment expenses. A good guide to follow is if the advertising is intended to search for new clients then it would not be eligible. However, if the advertising is trying to get existing clients to the new location and not tied to marketing of the business then it would be eligible. This is true even if the business owner changes the use of the business. It must focus on advertising the new location not the business.

6. Increased cost of operations for two years at the replacement site for items such as rent, taxes, insurance, and utility costs. The Relocation Specialist must obtain copies of both of the leases, tax statements, insurance policies, and utility statements in order to calculate the level of reimbursement. Increased costs should be based on similar size locations.

Appendix 12-8

   a. **Mortgage to Lease** – If a displaced business elects to lease a replacement site instead of purchasing, the specialist must use the difference between the economic rent of the displacement site and the market lease rate of the replacement site. The specialist will need to refer to the appraisal to obtain economic or market rent of the displacement site.

   b. **Lease to Mortgage** – If a displaced business elects to purchase a replacement site instead of leasing, the specialist must use the difference between the rent or economic rent at the displacement site and what the market lease rate would be at the replacement site. The specialist may need to work with the appraisal department or an outside source to determine market rent of the replacement site. Outside sources could include but are not limited to real estate agents, appraisers, property management companies, etc.

   c. **Change of Business** – Change of business should not affect the calculation for increased costs since it is based on the real property and is limited to what is reasonable for that type of business.

7. Other items WSDOT considers essential to the reestablishment of the business.

B. **Ineligible Expenses**

49 CFR 24.304(b)
WAC 468-100-306(2)

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.
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.

12-7.2.3.1 Reestablishment Expenses for Nonoccupant Owners

A nonoccupant 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.

Appendix 12-14

A. To be eligible for this payment, the displaced person must establish that the 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. In order to be eligible for reestablishment payments, the Relocation Specialist must view a copy of the most recent tax return filed and document in their diary that it is an operational business, farm, or NPO. In a landlord situation, it will be necessary for the specialist to obtain a complete/entire certified copy of the most recent year's tax return.

In order to be considered complete, the tax return needs to include the 1040 form and appropriate attached schedule(s).

Certification of the tax return will need to be completed by the individual who prepared the return, i.e., accountant, attorney, business owner. Once the tax return is reviewed by Headquarters, the tax return will be destroyed. The statement can be as simple as the following: "I hereby certify that this tax return is a true and correct copy of my filed return."

C. To be eligible to receive a reestablishment payment, the Nonowner Occupant must:

1. Acquire a replacement location within 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. Specialist 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 a lessee who subleases space is not eligible for a Reestablishment Payment.

49 CFR 24.303
RCW 8.26.035(1)
WAC 468-100-303

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 will be reimbursed if expenses are considered to be reasonable and necessary and associated with running the utilities from the right of way adjacent to the replacement site to the improvements on 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.

For example, if a displaced business has to run utilities across or past multiple parcels, it would not be considered reasonable and reimbursement would be limited to expenses associated with making the connection from the right of way adjacent to the replacement site only. In some cases, WSDOT may consider it reasonable to reimburse a displaced business for the expenses associated with bringing the utility from the central connection point to the right of way adjacent to the replacement property as a reestablishment expense under WAC 468-100-306(1)(g) – other items the agency considers essential to the reestablishment of the business.

Appendix 12-12

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). The displaced business must hire a professional in order to be eligible for reimbursement. However, in some instances the displaced business can apply for a waiver and request that their displaced business be reimbursed for their work.

   1. To apply for a waiver the displaced business must submit to WSDOT in writing a request to perform the professional services themselves. The request must include the following:

      a. Business qualifications.

      b. Reasons for wanting to complete the work instead of hiring an outside professional.

      c. Hourly rate.

      d. Scope of work – not to exceed the amount of the proposal submitted.

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

49 CFR 24.305
RCW 8.26.035(3)
WAC 468-100-304

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 reestablishment. 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

49 CFR 24.305(a)
WAC 468-100-304(1)

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 or 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 WAC 468-100-002(7).

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.

49 CFR 24.305(b)
WAC 468-100-304(2)

B. **Determining the Number of Businesses** – It is acceptable to apply the considerations discussed in this section to determine the number of business that are displaced by a public project.

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.

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.

49 CFR 24.305(e)
WAC 468-100-304(5)

1. If the two taxable years immediately preceding displacement are not representative, the Relocation Specialist may use a period that would be more representative. Prior to using this alternative procedure, there must first be a determination that the proposed construction or other nontypical factors not within the control of the displaced business were the cause of a decline in net income for the business. The agent should refer to the reference material titled "How to Analyze Income Tax Forms . . . In Lieu of Payments" from the IRWA Uniform Act Symposium in 2005 in order to help them through the process of analyzing the returns. Contact Headquarters Relocation Review if you need a copy.

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. **Documentation from Displaced Business** – For the owner of a business to be entitled to this payment, the business must provide information to support its net earnings. The Relocation Specialist 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. Certified copies of income tax returns for the last two tax years need to be obtained from the business owner. The Relocation Specialist will need to obtain the following tax documents based on the filing status of the displaced business:
   - Sole Proprietorship
     - Form 1040
     - Schedule C
     - W-2 or payroll records of owner's spouse or dependent child
   - Partnership
     - Form 1065
     - W-2 for spouse/dependent wages
   - Limited Liability Company (LLC)
     - Form 1065/1120/1120S
     - Schedule C
   - Corporation
     - Form 1120/1120A
     - List of shareholders (owners) and a list of their spouses/ dependents along with W-2's or payroll records
   - S Corporation
     - Form 1120S
     - W-2 for owners, spouses/dependents
     - List of owners and family members
   - Farms
     - Form 1040/1065/1120/1120S
     - Schedule F
   - Nonprofit Organization
     - Form 990
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. Headquarters Relocation will destroy or return the financial records once the review is complete and the specialist completes Fixed Payment Work Sheet (RES-519) and Application for Fixed Payment (RES-538).

12-7.3.2 Farm Operation

49 CFR 24.305(c)
WAC 468-100-304(3)

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 or 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 acquisition, 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 acquisition caused the operator to be displaced from the farm operation on the remaining land.

   3. The acquisition 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

49 CFR 24.305(d)
WAC 468-100-304(4)

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.

12-7.3.4 Selection of the Fixed Payment Option by Displaced Business

A business owner may indicate their desire to apply for the fixed payment early in the relocation process; however the Relocation Specialist must compute the remainder of the displaced business' monetary entitlements prior to the delivery of the eligibility letter (RES-505) to the business owner. This means the specialist will need to either obtain moving bids or complete an agent estimate depending on the circumstances. Refer to Section 12-7.2 for complete procedures. The displaced business needs to have the full relocation picture in order to make an informed decision regarding the fixed payment option.

12-7.4 Move Cost Estimates by Relocation Specialists

A. A Relocation Specialist, 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 Specialist 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 Specialist 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 this chapter. If the combination of move methods is used and the amount exceeds the $5,000 limit the specialist must obtain move cost estimates by a qualified mover.

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

12-7.5 Claiming Nonresidential 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 Specialist 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 Specialist, the Relocation Specialist assists the displaced business, farm, or NPO with filing their claim(s).

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

C. Claims for moving payments must be made within 18 months after the following dates:

49 CFR 24.207(d)
WAC 468-100-207(4)

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 Reestablishment Claims

In order to provide adequate advisory services, the Relocation Specialist needs to work closely with the business owner to discuss potential claims and the business owner's plans to reestablish the site. Whenever possible, the Relocation Specialist should view the replacement site prior to any reestablishment expenses being incurred. Photos of the site should to be taken before and after any modifications are made.

A. See Section 12-7.2.3 prior to processing a reestablishment claim.

B. Claims for reestablishment expenses can be made by the displaced business as the expenses are incurred or all at once upon completion of the replacement site.

C. If the displaced business leases a replacement site, the specialist will need to obtain copies of both the existing lease at the displacement site and the signed lease at a replacement site. Upon receipt, this information should be forwarded to Headquarters 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.

D. In order to be eligible for reestablishment payments the Relocation Specialist must view a copy of the most recent tax return filed and document in their diary that it is an operational business, farm or NPO. In a landlord situation it will be necessary for the specialist to obtain a complete/entire certified copy of the most recent year's tax return. In order to be considered complete the tax return needs to include the 1040 form and appropriate attached schedule(s).

   Certification of the tax return will need to be completed by the individual who prepared the return, i.e., accountant, attorney, business owner. Once the tax return is reviewed by Headquarters, the tax return will be destroyed. The statement can be as simple as the following: "I hereby certify that this tax return is a true and correct copy of my filed return."

It is highly recommended that the Relocation Specialist work closely with the business owner to discuss potential claims and the business owner's plans to reestablish the site. Whenever possible, the Relocation Specialist should view the replacement site prior to any reestablishment expenses being incurred. Photos of the site should to be taken before and after any modifications are made.

Preapproval/Approval Process

When a business owner wants to make a reestablishment claim, the Relocation Specialist should:

- View the replacement site with the owner and discuss the details of the potential claim. Photos should be taken of the site to document the replacement site before the work is performed.
- Once scopes of work, bids, proposals, estimates, or invoices are received for the reestablishment claim, the Relocation Specialist needs to write a recommendation for approval. The recommendation can be an email or internal WSDOT Memo. The specialist should organize the claim so that it can be easily reviewed and provide an outline of the recommendation for reimbursement. It may be necessary for the Relocation Specialist to contact the business owner or service provider for clarification of the invoice. The recommendation is written to the reviewer and transmitted through the Region Relocation Supervisor. The recommendation should include the following information:

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a. Date, who the recommendation is from, who it is to, project name, parcel number, displaced business name, and displacee number

b. Brief description of the business and the service provided

c. Detailed description of the reestablishment claim, i.e., what is the claim? Why does the business need it? Did they have it at the displacement location? Is it code required? If so, what is the code? If required by code, the specialist should provide a copy of the code requirement.

d. The recommendation needs to cite which provision under WAC 468-100-306 applies.

e. The specialist needs to make a statement recommending approval or denial of a specific contractor for work to be performed and/or dollar figure based on the above information.

f. Attached supporting information (photos, invoices, local code sheets, market studies, etc.).

g. An updated diary must be submitted with all recommendations.

- The reviewer may ask for additional information or clarification and either approve or deny your recommendation.

Actual Claim Submittal

1. Once the business has completed the reestablishment work for which they are submitting a claim, the specialist will visit the replacement site and take photos of the completed product. The business owner needs to supply proof of payment (invoices or receipts) that clearly identifies the work performed. WSDOT can pay on their behalf if the business owner agrees the work was performed in accordance with the scope and to their satisfaction. If the claim is more than the preapproved amount then you cannot get the relocation assistance voucher signed by the displaced business owner until the amount of the claim is approved by the relocation reviewer. In these situations, the Relocation Specialist should:
   - Send an email or memo to the reviewer explaining why the actual amount is more than the preapproved amount. Be sure to reference the preapproval. Include a copy of the actual paid invoice/receipt. Once you receive approval from the reviewer you may move on to the next step.
2. If the claim has been preapproved or approved as described above, the Relocation Specialist can create a voucher for the amount of the claim (based on proof of payment or work performed in accordance with the scope and accepted by the business owner). If the claim has not been preapproved, the Relocation Specialist still needs to create a recommendation as described in the preapproval process. Once Headquarters approval is received, the business owner, Relocation Specialist, and Region Relocation Supervisor need to sign the voucher.
3. At the same time they are signing the voucher for the work performed, the business owner needs to sign the Application for Reestablishment Expenses (RES-523). The original form is then sent to Headquarters along with the voucher for signature and processing.

12-7.5.3 Professional Services Claims

A. Not every displaced business is considered a complex move and professional services may not be considered reasonable and/or necessary. Claims for professional services must be considered "reasonable and necessary" and should be preapproved by WSDOT in order to claim reimbursement. If the displaced business desires to perform their own professional services they need to apply for a waiver as set forth in Section 12-7.2.1.A.8 and Section 12-7.2.4.B. Relocation specialist 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 of this chapter. 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. Research 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 prior to 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).

   This portion of professional services is reimbursed as a related nonresidential eligible expense.

49 CFR 24.303(b)
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. Work with business owner to create the Request for Proposal/Moving Specifications to secure move bids to move all personal property to the replacement site.

3. Securing move bids including 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 specialist to prepare necessary inventory, identify all vendor owned equipment, and identify those items to be abandoned or replaced.
2. Notifying WSDOT specialist when the replacement site has been located.
3. Notifying WSDOT specialist 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. Specialist should provide displaced business with appropriate inventory form (RES-545).
5. Providing valuation of personal property to WSDOT specialist for the purpose of obtaining replacement value insurance prior to the preparation of the Request for Proposal.
6. Obtaining preapprovals from WSDOT specialist 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 specialist 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 RAPM 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 professional services specialist does or how it is done. In rare cases, a displaced business may apply for a waiver and ask that their business be reimbursed for performing the professional task as set forth in Section 12-7.2.1.A.8 – Actual Move Costs and Section 12-7.2.4.B – Related Nonresidential Eligible Expenses.

12-7.5.4 Nonresidential 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 RAPM may authorize advance payment of relocation claims.

49 CFR 24.207(c)
RCW 8.26.085(1)(b)
WAC 468-100-207(3)

A. **Advance Moving Payments** – It is often necessary for a business to request advance payments during their move. The RAPM may approve advance payments based on the amount of the move that has been completed. The Relocation Specialist should monitor the move and determine the percent of the move that has been completed. The Relocation Specialist 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 percent of total move costs unless requested and approved by the RAPM.

B. **Reimbursement of Nonresidential Moving Payments** – Moving payments for nonresidential 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 Specialist should prepare the claims (vouchers) 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 Specialist 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 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 Specialist must obtain the signature of the displaced business on the relocation assistance voucher. The Relocation Specialist should also obtain a Substitute W-9 and SWV 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 Specialist should have the displaced business sign a claim (voucher) directing payment be made to a 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 Specialist should also obtain a Substitute W-9 form from the 3rd party in accordance with procedures set forth in Chapter 10. The Relocation Specialist should clearly document the request to make a 3rd party payment on the displaced business' behalf in the diary.

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

49 CFR 24.207(a)
WAC 468-100-207(1)

1. The lease will help the specialist 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, and lease costs.
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 Specialist provides Headquarters 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 Substitute W-9 and SWV form.

B. Once these forms are signed by the displaced business and the SWV number obtained by the Relocation Specialist, the claim voucher and associated documentation are transmitted to Headquarters for final approval.

C. Upon final approval by Headquarters, the RAPM authorizes payment and the voucher is forwarded to the accounting section for processing and generation of the payment (warrant).

D. Both the region and Headquarters should monitor partial and advanced payments to assure that the displaced person does not receive payment in excess of their maximum entitlements.

E. **Coding** – Relocation Assistance Vouchers are coded based on the type of relocation payment. The specialist must select the appropriate coding from the object codes and definition chart, i.e., residential replacement housing payments or moving expenses; non-residential reestablishment or moving expenses; and personal property only moving expenses.

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49 CFR 24.301(j)
WAC 468-100-301(10)

12-7.6 Abandonment of Personal Property

The specialist 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 specialist should not encourage items to be left on the property. In some cases personal

property is left at the displacement property due to the agency waiving the need for the displaced person to make a reasonable attempt to sell the personal property under a SPP or DLT or in rare instances just abandoned, the Relocation Specialist will need to obtain the region RESM 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 cannot claim additional relocation payments for the abandoned property. The approval should be documented in the specialist's diary. The abandoned personal property will become the property of WSDOT through the transfer of ownership provision discussed in WAC 468-100-301(10) or through a Bill of Sale to WSDOT. In either case, the personal property will be managed by our Property Management Department. Once the region RESM approval is obtained, the moving expense attributable to the abandoned property must be deducted from the displaced business' final move payment. The Relocation Specialist 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 according to procedures set forth in Chapter 11. If the property is clear at the vacate inspection, there is no need for the specialist to obtain a signature from the displaced business on the abandonment notice.

12-8 Mobile Homes

49 CFR 24.501
WAC 468-100-501

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. A mobile home includes manufactured homes and recreational vehicles (RV) used as permanent residences. 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 Work Sheet (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 an RV used as a permanent residence, 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 Work Sheet (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 section each time a mobile home is within the acquisition area and considered personal property.

49 CFR 24.502(a)
49 CFR 24.503
WAC 468-100-502(1)
WAC 468-100-503

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 outside on the site of 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 include 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 as follows:

a. The Relocation Specialist 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.

49 CFR 24.301(g)(9)
WAC 468-100-301(7)(i)

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.

49 CFR 24.301(g)(8)
WAC 468-100-301(7)(h)

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 nonrefundable entrance fee to move their mobile home into a mobile home park, that fee will be paid as an incidental moving cost.

49 CFR 24.301(g)(10)
WAC 468-100-301(7)(j)

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 Specialist 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 Specialist will calculate a replacement housing payment depending on occupancy status (owner/tenant) of the unit.

49 CFR 24.502(a)(3)
WAC 468-100-502(1)(c)

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 irreparable 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

49 CFR 24.502(a)
49 CFR 24.503
WAC 468-100-502(1)
WAC 468-100-503

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 Replacement Housing Payments for Mobile Home's Acquired by the Agency

WAC 468-100-504(1)

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 Specialist should calculate the following:

   WAC 468-100-502(2)
   WAC 468-100-502(4)

   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 Specialist should calculate the following:

   WAC 468-100-502(2-4)
   WAC 468-100-503

   a. A Price Differential for the mobile home and a Rent Supplement for the site. The rent supplement for the site can include the cost of utilities as needed.

      (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 rent the mobile home and the site, the Relocation Specialist should calculate the following:

   WAC 468-100-503

   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.

A displaced tenant eligible for a rent supplement payment who elects to purchase a replacement dwelling (down payment assistance) is eligible to receive an amount, not to exceed the amount of the calculated 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. Both rent supplements can be combined toward the purchase of the replacement dwelling.

WAC 468-100-502(2)
WAC 468-100-502(4)
WAC 468-100-503

4. If the displaced person rents the mobile home and owns the site on which the mobile home is located, the Relocation Specialist 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. The reimbursement is limited to the amount necessary to purchase the most comparable replacement dwelling selected by the department and used to establish the RHP. 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. The reimbursement is limited to the amount necessary to purchase the most comparable replacement dwelling selected by the department and used

to establish the RHP. This information can be located on the Department of Licensing website 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 RAPM 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.

49 CFR 24.501(b)
WAC 468-100-501(2)

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.

49 CFR 24.502(b)(3)
WAC 468-100-502(2)(c)
WAC 468-100-504(2)(a)

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 specialist should follow the procedures set forth in Chapter 6. It is highly recommended that the Relocation Specialist accompany the acquisition specialist 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.

F. **RVs Used as a Permanent Residence** – The specialist should compute the cost to move the RV in the same manner as a mobile home using RES-546. Move costs for personal property should be done utilizing the room count method, a commercial move, or actual costs as described in Section 12-6.5.

G. **RVs Used as a Non-Permanent Residence** – The specialist should compute the cost to move the RV as described in the personal property Section 12-9.3.

12-9 Personal Property Only (PPO) Relocation

12-9.1 Definition

49 CFR 24.301(e)
RCW 8.26.035(1)(a)
WAC 468-100-301(5)

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, business operation, farm operation, or NPO from the acquired property. Business, farm, and NPO operations that must incur reestablishment 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 reestablishment 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

49 CFR 24.301(e)
RCW 8.26.035(1)(a)
WAC 468-100-301(5)

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. **Commercial Move** – 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 Specialist 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 RAPM for review/approval.

2. **Self-Move** – A self-move by the displaced person can be based on bids from qualified movers, an estimate by the Relocation Specialist, 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 Specialist prepares a written and photo inventory of the items to be moved. The Relocation Specialist 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 Specialist 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 RAPM 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 Specialist in accordance with Section 12-7.4. The region will submit the move cost estimate with all supporting documentation to the RAPM 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′	$200.00
5′ by 10′	$250.00
10′ by 10′	$350.00
10′ by 15′	$550.00
10′ by 20′	$750.00
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 Specialist in their diary and approved by the Region Relocation Supervisor.

d. A dislocation allowance in the amount of $35 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 Specialist in their diary and approved by the Region Relocation Supervisor.

e. Move costs for vehicles, trailers not connected to utilities, 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. Nonoperating vehicles and smaller motor homes that require towing.	$125.00 each
4. Nonoperating trucks and larger motor homes that require towing.	$150.00 each

The move cost is computed based on the type of vehicle. The move cost should be documented by the Relocation Specialist in their diary and approved by the Region Relocation Supervisor. If recreational vehicles are connected to utilities, the specialist can prepare an agent estimate as described in Section 12-7.4, obtain an estimate from a professional, or use actual costs.

f. Move costs for appliances shall be based on a fixed rate of $50 per appliance which includes the cost to disconnect and reconnect. The move cost should be documented by the Relocation Specialist 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 Specialist to monitor the move.

3. **Actual Cost Move** – 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 Specialist should prepare claim and send to RAPM with region recommendation for review and approval.

   b. **Move Monitoring** – Specialist should follow procedures outlined in Section 12-7.2.1.

   c. **Post Move Inventory** – Specialist 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 Specialist that all personal property to be moved by the mover has been moved to the appropriate replacement location.

B. Payment for self-move and actual move costs will be paid to the displaced person upon receipt of documentation from the displaced person that sufficient costs were expended to perform the move and upon verification by the Relocation Specialist 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 Specialist that all personal property has been moved from the acquired property to an appropriate replacement location.

D. In all cases, the Relocation Specialist will need to obtain a Substitute W-9 and SWV form from the payee in accordance with procedures set forth in Chapter 10.

E. **Coding** – Relocation Assistance Vouchers are coded based on the type of relocation payment. The specialist must select the appropriate coding from the object codes and definition chart, i.e., residential replacement housing payments or moving expenses; non-residential reestablishment or moving expenses; and personal property only moving expenses.

Appendix 12-3

49 CFR 24.101(b)(1)
WAC 468-100-101(2)(a)

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. See also 49 CFR 24.101.

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.

49 CFR 24.2(a)(9)(ii)(D)
WAC 468-100-004(2)

Appendix A
Sec 24.2(a)(9)(ii)(D)

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.

A temporary move is considered to be less than one year. Anything beyond 12 months is considered a permanent displacement and the displaced person would be moved and relocation benefits would be paid based on their occupancy status. FHWA will only participate in one reestablishment payment for temporary non-residential displacements.

Temporary move costs can be paid as part of the relocation assistance program, as part of a cost to cure, or can be handled administratively. Sometimes the project office handles temporary relocations by paying actual costs directly.

If a temporary move is authorized by the RAPM for a residential or nonresidential 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.

12-12 Temporary Construction Easements (TCE)

If there are displaced persons or personal property to be moved within a temporary construction easement area, the displaced person must be provided with relocation assistance including proper notices. This is also true in situations where the project office handles the relocation of the property (cured in contract) out of the TCE area and then back once the project is complete.

Washington State Department of Transportation

Memorandum

Date: June 3, 2011

To: Dianna Nausley, Relocation Assistance Program Manager (RAPM)
Reviewer's Name, State Relocation Reviewer

From: Supervisor's Name, Region Real Estate Services Supervisor
Relocation Specialist's Name, Region Relocation Specialist

Subject: **Reestablishment Recommendation – Estimated Increased Costs for Operation**
Project Name
Displacee Name
WSDOT Parcel No.
Displacee No.

Displacee's Claim - $50,000

Ruff's Pet Supplies is requesting reimbursement of $50,000 under reestablishment expenses for the increased cost to operate their business at their new location, 12345 State Route 455 in Kelso, WA based on the rent difference at their displacement location and the new location.

Background

WSDOT initiated negotiations with Ruff's Pet Supplies landlord at the displacement site on September 2, 2010 for the State Route 42 highway improvement project. Ruff's Pet Supplies, a non-residential displacee, expressed their desire to expand their business due to this relocation. They vacated the displacement site on January 31, 2011. Ruff's signed a lease agreement with Stone Properties, Inc. on January 25, 2011 to commence occupancy of the replacement site on March 1, 2011.

The monthly rent at the displacement site was $1,500 per month and the business was responsible for paying all utilities. Per Lewis County Assessor records for Parcel No. 12345-001-01-0000, the 2,000 s.f. building was built in 1945 and zoned Commercial General Retail.

Ruff's new location is located at 12345 State Route 55 in Cowlitz County. Per County records, the 1954 building is split-level with a total of 4,041 s.f. Contract rent is $4,041 per month and includes the base monthly rent of $2,997.44 plus an additional $602.50 for other property charges, such as insurance premiums, repair and maintenance charges (or $1.00 per square foot per year). Ruff's is also responsible for paying all utilities. Per terms in the rental contract, Ruff's is not required to pay rent for the first three months.

Analysis

Actual Test: Ruff's signed a rental contract with Stone Properties, Inc. on February 25th and rent is $4,041 per month. Actual costs for increased operation should consider the three-month rental credit the business has per terms in their rental contract (see Rent Rider, last page of the contract). A copy of the rental contract is attached to this Recommendation Memo.

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Revised 5/99

Ruff's Pet Supplies
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Page 2

Reasonable Test: The new site is larger in square footage, slightly more than twice as large as the displacement site. It's not reasonable to reimburse the business for the entire rental cost increase as their new site is much larger than the displacement site. Instead, increased operation costs should be based on the size of the displacement structure, or 2,000 s.f.

Rent at the 2,000 s.f. displacement site was $0.75/s.f. ($1,500/month divided by 2,000 s.f.). Based on the rental rates of available Kelso commercial rentals, rents range from $0.83/s.f. to $2.17/s.f., of those comparable sites within one mile of the replacement site averaged $1.04/s.f.

Necessary Test: Commercial rental properties are scarce in the Longview area. Using Craigslist.com and www.commercialmls.com , I located one 2,500 s.f. rental available in downtown Longview. Market rent is between $13.20-$15.00 s.f. or $2,750 month.

There are more commercial rental opportunities in the Kelso than Longview area – a summary is attached to this Recommendation Memo. In short, I found 18 available sites that were within 1,800-2,700 s.f. and as close as 0.51 mile to 5 miles away from the actual replacement site.

I recommend calculating reimbursement for increased costs to operate the business at the new location based on the size of the displacement site, or 2,000 s.f. as follows:

Dollar per s.f. for replacement location:	$4,041 divided by 4,041 s.f.	=	$1.00/s.f.
Adjusted s.f. for replacement location:		=	2,000 s.f.
Adjusted rent at replacement location:		=	$2,000/month
Rent at displacement location:		=	$1,500/month
Difference in monthly rent:		=	$500/month
Multiplied by 21 months (3 months rent-free at new location):		=	$10,500

Total recommended eligible reimbursement for increased cost to operate under WAC 468-100-306(1)(f)(i) is $10,500.

Attachments:
Copies of leases for displacement and replacement sites
County Assessor Parcel Information on displacement and replacement sites
Comparable Rental Summary

Note – the attachments are not included

This is a total acquisition of a single family residential property in Tacoma, Washington. The owners have lived there for 19 years. The appraised value is $325,000. The appraisal states that the replacement value of the in-ground swimming pool is $20,000 but it only contributes $10,000 to the total property value. Pools are not typical in the Tacoma area. Three comparables are found, none of which have an in-ground pool. The most comparable is listed at $320,000.

How do you calculate the Maximum Price Differential payment?

Appraised Value	$325,000
Less value of pool from appraisal	10,000
Adjusted Value of Displacement	$315,000
Price of Most Comparable	$320,000
Less Adjusted Value of Displacement	315,000
Maximum Purchase Price Differential	$ 5,000

Larger Than Typical Lot Example

This is a total acquisition of a single family dwelling on three acres. The appraised value of the land is $105,000. Each acre is valued at $35,000 and the dwelling is valued at $80,000. The total appraised value is $185,000.

The agent determined that typical residential tracts in the area are one acre. Three comparables were found situated on a typical tract of one acre. The most comparable is listed at $200,000.

How do you calculate the Maximum Price Differential payment?

Appraised Value	$185,000
Less two acres valued at $35,000	70,000
Adjusted Value of Displacement	$115,000
Comparable Replacement Dwelling	$200,000
Less Adjusted Value of Displacement	115,000
Maximum Purchased Price Differential	$ 85,000

Mixed Use Example

This is the total acquisition of a two acre tract that contains a grocery store and a residential home. The owner of the home is also the occupant and the operator of the store. Because the property is considered mixed use, the value of the business portion of the property must be carved out from the value of the residential portion of the property.

The appraisal indicates the following:

Value of land	$300,000
Value of Commercial Building	100,000
Value of Residential Dwelling	150,000
Total Appraised Value	$550,000

It is determined that the property is equally divided for residential use and commercial use. Therefore, the value of the land that pertains to the residential portion of the property is $150,000, giving the residential portion of the property a total value of $300,000, leaving $250,000 of the value for the commercial portion where the convenient store is located.

How do you calculate the Maximum Price Differential payment?

Value of land for residential purposes	$150,000
Plus Value of Residential Dwelling	150,000
Total Appraised Value of Residential Portion	$300,000

Three comparables were found located on similar size property comparable to the residential portion being acquired. The most comparable is listed at $325,000.

Comparable Replacement Dwelling	$325,000
Appraised Value of Residential Portion	300,000
Maximum Purchase Price Differential	$ 25,000

Appendix 12-11 Determining the Number of Businesses

While multiple businesses can operate at a displacement site, there is a possibility that there may only be one displacement depending on the factors for determining the number of businesses.

The Washington State Department of Transportation (WSDOT) is displacing a hair salon that operates under the business name "Hair Dos to Go." Each of the six stations is leased to individual stylists who each file their taxes separately. All six stylists share the same wash bowl and back bar of shampoos, colors, etc. The salon has one receptionist that books appointments for all stylists and collects payments. All checks are made payable to either Hair Dos to Go or to the individual stylist. The relocation specialist completed the occupancy survey for each of the stylists and now must determine how many businesses are displaced. According to the occupancy surveys, the entire salon will relocate to the same replacement site.

The specialist must apply the considerations listed in WAC 468-100-304 *Fixed payment for moving expenses — Nonresidential moves* to determine how many displacements are eligible to receive relocation assistance.

- The same premises and equipment shared.
- Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled.
- The entities are held to the public, and to those customarily dealing with them, as one business.
- The same person or closely related persons own, control, or manage the affairs of the entities.

In this example, all the stylists share the same premises and equipment. They have identical or interrelated business functions but their financial affairs are not commingled. The stylists are held out to the public as one salon "Hair Dos to Go" and the customers think it is one business. It is clear that not the same persons own control and manage the affairs of the salon.

Based on the outcome of these considerations, WSDOT would recognize that there are multiple operational business but only one displacement and thus eligible for only one reestablishment payment. If the stylists choose to move separately, it would be appropriate to treat them as a separate business, allow them a separate searching expense, AND a separate reestablishment payment. BUT how much they could actually receive for a reestablishment payment is going to be limited to what is "actual, reasonable, and necessary." So if the "Hair Dos to Go" business is moving to a replacement site where each of the stylists could relocate and continue on as before, most of the items under

24.304 would not be "reasonable and necessary," perhaps with the exception of exterior signing and advertisement of the replacement location; although, even those items may not be "reasonable" if the stylist would not have incurred such costs had she moved with "Hair Dos to Go."

Example

The Washington State Department of Transportation (WSDOT) has displaced an architect firm that is qualified to perform space planning which is a service they offer as part of their business operation. In this situation, the displaced business could apply for a waiver. In the case of a waiver, WSDOT must pre-approve a reasonable hourly rate and a scope of work prepared by the business. This hourly rate and number of labor hours cannot exceed what a professional would charge to perform the same task.

The displaced farm is paid $5,000 in the acquisition process for the loss of a pond as a source of water to feed livestock. It is necessary to replace the pond and the cost of replacement is $10,000. If the displaced business received assistance from another governmental agency to make up the difference in the cost, there would be no reestablishment expense incurred. If the displaced business received a portion, say $3000, from another governmental agency, the difference, or $2,000, could be reimbursed as a reestablishment expense. If the displaced business has not received any payments other than the $5,000 paid during the acquisition process, or the relocation specialist does not have knowledge of any other payment for this purpose, then $5,000 can be reimbursed to replace the pond as a reestablishment expense.

Determining eligibility of a displaced person who owns property and rents the property to a business owned by themselves.

Essentially, they are renting to themselves. For example, John Doe owns a piece of property and is renting to a car dealership also owned by him. The property is being purchased by WSDOT for a transportation improvement project. Do they qualify as two business displacements and eligible to receive relocation entitlements on both?

Generally speaking, this issue would be of concern when considering business reestablishment expenses (49 CFR 24.304), certain actual cost move expenses (e.g., searching expenses) as per 24.301, related nonresidential expenses (such as impact fees) as per 24.303, or the fixed payment in lieu of moving expenses as per 24.305. The need to be able to distinguish whether the "business" qualifies as one or more businesses would not normally be an issue with those costs directly attributable to moving personal property, such as disconnect/reconnect, packing, transporting.

However, in those situations where it is necessary to determine whether a displacement constitutes one business or multiple businesses in order to avoid duplicate or unreasonable reimbursement, you can apply the criteria set out in 49 CFR 24.305(b), even if the displaced person is not applying for the fixed payment. Following is that regulation:

In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one 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 out to the public, and to those customarily dealing with them, as one business.
4. The same person or closely related persons own, control, or manage the affairs of the entities.

When applying the test for the number of businesses, we should apply all relevant factors and weigh their applicability. The four tests to determine the number of businesses are things to consider when making this determination, not all are required, but other things may also be considered.

Taking the example about John Doe's car dealership noted above and applying the criteria from 24.305(b), here is how that decision might be made:

a. John Doe's car dealership is sharing the same premises as the property he is leasing to the car dealership, which suggests this might be one business.

b. If the business and financial affairs of both the car dealership and John Doe's leasing of the property to his business are commingled—for example, if they are reported as part of one tax filing—this would suggest this is one business.

c. If John Doe is only a landlord for the site that the car dealership occupies—i.e., he has no other related rental properties—and he does not hold his "leasing" activity out as a separate business, this also would suggest this is one business.

d. If John Doe is the sole owner of the car dealership and of the underlying property which he is leasing to the car dealership, this is a pretty solid indication this is one business.

Of course, there are many different situations that may arise, so you will have to consider each situation on its own merits. While applying the criteria from 24.305(b) will help, what you are likely to find is that a particular situation might fit a couple of these criteria, but not all of them. For example, what if John Doe (using the example above) has other properties that he leases to businesses that he does not own, so that his income derives both from the car dealership and from his rental properties? Or, what if he is co-owner of the car dealership but sole owner of the real estate he is leasing to the car dealership?

The bottom line is—do the business operations really function as separate entities, or are they so closely intertwined that they constitute a single business displacement? Applying the criteria from 24.305(b) is a good starting point.

Appendix 12-15 Duplication of Payment

Situation

The property is occupied by the owner who is operating a business from the site as well as another tenant who is also operating a business on site. The occupants of the property purchased by WSDOT have interrelated business functions. The settlement agreement paid all funds to the displaced property/business owner and did not pay anything to the tenant. The tenant was on a month-to-month lease so no release of lease was required. The tenant business is now submitting relocation claims for property which is considered by the appraisal to be realty and was paid to the owner in the settlement agreement. The tenant business shared the space and many of the real property improvements and now wants them relocated to their replacement property. The tenant wants the real property improvements or fixtures that they were sharing with the owner at the displacement site relocated to their replacement site.

Result

The language of the regulation, both at 49 CFR 24.3 and in the federal appendix, does make it clear that the duplication of payment prohibition deals with "the person." That is, it is specific to the person receiving the original payment. WAC 468-100-003 is modeled after this federal regulation.

With that said, however, that does not confer upon the tenant any right to compensation for an item that is part of the real estate and for which the owner has already been paid. By way of analogy—just because the owner of a piece of real estate receives just compensation for the value of that real estate, it does not mean that a tenant of that site should also receive just compensation for the same piece of property just because the tenant is using that real estate.

Now, if the tenant has improvements on the real estate and the agency establishes that such improvements are owned by the tenant and the property owner disclaims any right to compensation for those improvements, then the tenant would be compensated through the appraisal and acquisition process for those improvements. In such case, the property owner would not be paid for such improvements as well. Consider this example:

> Total appraised value of real estate to be acquired is $500,000.
>
> The property is improved with an auto repair shop owned and operated by a tenant of the site.
>
> The contributory value of the auto repair shop to the total appraised value of the real estate is $300,000.

The lease allowed the tenant to build on the site and the property owner disclaims any interest in the improvements.

Consequently, the agency will make an offer of $200,000 to the property owner for his interest in the real estate and an offer of $300,000 to the tenant for the improvements.

In this example, neither the property owner nor the tenant is eligible to receive relocation assistance to relocate any improvements, including fixtures, that the agency's appraiser included in the appraisal and that the agency acquired.

As for fixtures, machinery, equipment, etc., that were NOT included in the appraisal as part of the real property, then it is necessary to establish who owns them and the appropriate party—either the owner or the tenant—may be paid to relocate them. It might be necessary to consult with the review appraiser about this matter. If just compensation was set by the agency based on an understanding from the appraisal that these items are part of the real estate rather than personal property, then they have been acquired and the tenant could not receive a separate payment for them.

For clarification: Words like "fixtures," "machinery," "equipment," "fixed assets," or many other similar terms may often be used by property owners, tenants, appraisers, etc. Regardless of the terminology used, the bottom line is this—what did the agency actually buy from the property owner (or from the tenant, in the case of tenant-owned improvements)? If the appraiser did not make it clear in the appraisal how such things as machinery, equipment, fixtures, furniture, etc., was dealt with, the review appraiser needs to get that clarified. Relocation must know what was acquired and what was treated as personal property.

Note: If both the owner and the tenant are paid either acquisition funds for the same item, or moving expenses for the same item, FHWA will participate only in one of those payments and the other must be coded non-Federal-aid participating.

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

13-1 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

13-2 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 website 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 website 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.

13-3 Appraisal Forms (Chapters 4 and 5)

WSDOT Agency Forms

220-015 EF	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	Narrative Report 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 Work Sheet
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 Work Sheet – Personal Property

13-4 Acquisition Forms (Chapters 6, 8, and 9)

WSDOT Agency Forms

120-020 EF	Work Order Authorization
130-005 EF	Agreement Edit Information
134-139 EF	Invoice Voucher
220-025 EF	Damage Claim Evaluation

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	Release of Lease
RES-314	Subordination Agreement for Utilities
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-331	Memorandum of Lease
RES-332	Notice of Lien
RES-333	Request to Accept Encumbrance
RES-334	Tax Set Over Letter
RES-335	Fixtures and Improvements Agreement
RES-336	Memo for Excess Lands
RES-337	Escrow Agreement
RES-338	Water System Agreement
RES-339	Water System Connection Agreement
RES-340	Septic System Agreement
RES-341	Septic System Connection Agreement

RES-342	Lease for Quarry/Pit
RES-343	Agreement Not to Rent
RES-344	Construction Memo
RES-345	Release and Transfer of Jurisdiction
RES-346	Mobile Home Bill of Sale
RES-347	Acquisition and Title File Contents
RES-348	Emergency Permit and Right of Entry
RES-349	Mobile Home Offer Letter
RES-350	Offer Letter
RES-351	Revised Offer Letter
RES-352	Landlord/Tenant Form
RES-353	Right of Way Parcel Transmittal
RES-354	Special Handling Memo
RES-355	Quitclaim Deed (Release Easement)
RES-356	Quitclaim Deed (Access Use for Easement)
RES-357	EFT Escrow Cover Letter
RES-358	OFM Escrow Cover Letter
RES-359	WSDOT Escrow Cover Letter
RES-360	EFT Payment Letter
RES-361	OFM Payment Letter
RES-362	WSDOT Payment Letter
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

13-5 Property Management Forms (Chapter 11)

WSDOT Agency Forms

130-005 EF	Agreement Edit Information
220-015 EF	Environmental Checklist for Surplus Property Disposals
260-051 EF	Bid for Purchase of Surplus Real Estate
261-005 EF	Surplus Property Report
263-003 EF	Salvage Appraisal Report
263-004 EF	Assignment of Lease
263-006 EF	Application for Deferred Payments
263-007 EF	Property Inspection and Status Report
263-008 EF	Residential Property Inspection
263-009 EF	Rental Agreement Transmittal
263-010 EF	Right of Way Property Acquisition Procedures
263-016 EF	Memorandum of Lease Benefiting Appurtenant Property
263-017 EF	Memorandum of Lease
263-018 EF	Memorandum of Lease Termination
263-023 EF	Personal Property Sale and Removal Agreement
265-001 EF	Disclosure of Information on Lead-Based Paint and Lead Based Paint Hazards – Sales of Pre 1978 Housing
265-002 EF	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 Title Check and 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-408	Estimate of Value for Parcel under $10,000.00 (under development)
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	Standard Airspace 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
RES-426	Assignment Assumption of Lease
RES-427	Notice to Vacate
RES-428	Cooperative Agreement
RES-430	Memorandum of Lease
RES-431	Memorandum of Lease – Appurtenant
RES-432	Wireless Lease for Utility Pole Attachment
RES-433	Event Lease
RES-434	Lease Amendment
RES-435	Personal Property Sale and Removal Agreement
RES-436	Real Estate Services Application/Single Family Residential Supplement
RES-437	PM Lease Review Checklist
RES-438	Monitoring Well Agreement
RES-439	Right of Entry
RES-440	Tiedown Lease

13-6 Relocation Assistance Forms (Chapter 12)

Real Estate Services Forms

RES-501	General Notice of Relocation Rights (Nonresidential)
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, and 90-Day Assurance (Nonresidential)
RES-506	Notice of Eligibility, Entitlements, and 90-Day Assurance (Nonresidential Fixed Payment)
RES-507	Notice of Eligibility, Entitlements, and 90-Day Assurance (Residential Owner)
RES-507a	Notice of Revised Price Differential (Residential Owner)
RES-507b	Notice of Eligibility – Non DSS (Residential Owner)
RES-507c	Notice of Eligibility w/Carve Out Language (Residential Owner)
RES-508	Notice of Eligibility, Entitlements, and 90-Day Assurance (Residential Tenant)
RES-508a	Notice of Eligibility – Non DSS (Residential Tenant)
RES-509	Notice of Eligibility, Entitlements, and 90-Day Assurance (Landlord)
RES-510	Notice of Eligibility, Entitlements, and 90-Day Assurance (Personal Property)
RES-511a	Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Own Mobile Home, Rent Site)
RES-511b	Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Own Mobile Home, Own Site)
RES-511c	Notice of Eligibility, Entitlements, and 90-/Day Assurance (Mobile Homes – Rent Mobile Home, Rent Site)
RES-512	Notice of Intent to Acquire
RES-513	Mortgage Interest Differential Payment (MIDP)
RES-514	Incidental Purchase Expense Work Sheet
RES-515	Documentation of Living Expenses
RES-516	Price Differential Entitlement Instructions
RES-516a	Down Payment Assistance Entitlement Instructions
RES-517	Vacate Inspection
RES-518	Agreement for Provisional Replacement Housing Payment
RES-519	Fixed Payment (In-Lieu) Work Sheet – Nonresidential
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	Application for Reestablishment Expenses – Nonresidential
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	Nonresidential Checklist
RES-531	Personal Property Checklist
RES-532	Residential Occupancy Survey
RES-533	Nonresidential Occupancy Survey
RES-533a	Nonresidential (Landlord) Occupancy Survey
RES-534	Personal Property Only Occupancy Survey
RES-535	Pre Move Inventory – Nonresidential
RES-536	Final Claim Letter – Nonresidential
RES-536a	Final Claim Letter – Residential
RES-537	Relocation Assistance Voucher
RES-538	Application for Fixed Payment – Nonresidential
RES-539	Monthly Income Verification
RES-540	Move Expense Agreement – Residential
RES-540a	Move Expense Agreement – Nonresidential
RES-541	Housing Comparison Work Sheet
RES-542	Price Differential Report
RES-542a	Price Differential Report Instructions
RES-543	Rent Supplement Report
RES-544	Notice of Relocation Noneligibility
RES-545	Nonresidential Obsolete Printed Items
RES-546	Mobile Home Move Cost – Personal Property
RES-547	Lawfully Present in the United States Certification
RES-548	Transfer of Ownership Non Residential