

1. Introduction

- 1.1. Introduction
- 1.2. Mission Statement and Responsibility
- 1.3. History and Organization
- 1.4. Project Funding
- 1.5. Statutory and Regulatory Background
- 1.6. Oversight Agreement
- 1.7. Summary of Project Activities

1.1. Introduction

This manual is intended to guide Department of Transportation & Public Facilities (DOT&PF) staff and contractors through the right-of-way (ROW) acquisition, appraisal, relocation, and property management processes. The Department's ROW Group will use policies, procedures, and practices agreed upon with our funding partners as described in this manual to acquire and manage real property, whether for highways (including Federal-aid highways), airports, public facilities, transportation alternatives, or environmental mitigation.

This manual also applies to contractors and other agencies acquiring real property for DOT&PF.

Electronic copies of the manual incorporate hyperlinks for ease of use. If a hyperlink does not work, please notify the Statewide ROW Chief at 907-465-6954.

Note: The hyperlinks are to statutes and regulations as they existed on the date of this publication. Please verify whether a law has since been amended.

This chapter provides an overview and summary of the various ROW processes, including the statutory and regulatory background for those processes.

1.2. Mission Statement and Responsibility

DOT&PF's mission is "Keep Alaska Moving through Service and Infrastructure."

In managing the State's highway rights of way, DOT&PF has a legal obligation to serve the traveling public by protecting the safety and integrity of a highway's design, and to facilitate the

design, construction, maintenance, and operation of highways.

The ROW Group meets this obligation by providing engineering, appraisal, acquisition, relocation assistance, and property management services. DOT&PF is committed to furnishing cost-effective, sound, and reliable transportation systems and public facilities for all Alaskans.

ROW Agents have both the duty and the responsibility to serve the people of Alaska through exemplary conduct, patient explanation, and courteous treatment of all with whom they come in contact. Agents must have thorough knowledge of basic engineering practices; theories and techniques of real property appraisal, acquisition, and management; real property law; and pertinent regulations. Agents must be able to communicate effectively and must be honest, tactful, and innovative.

1.3. History and Organization

1.3.1. History

The Alaska Road Commission was created in 1905 and remained until 1959. The Department of Public Works was then created to oversee highways, airports, water and harbors, buildings, and other related functions.

The Governor established the Department of Highways and Public Works in 1962 by executive order. It remained as the parent organization of Aviation, Water and Harbors, Buildings, and the newly created Division of Marine Transportation.

The Department of Highways was eliminated in 1977 and the Department of Transportation & Public Facilities was established to combine the work of the two previous departments.

1.3.2. Organization

DOT&PF is organized geographically, with a statewide/headquarters office in Juneau and regional offices in Juneau (Southcoast Region), Anchorage (Central Region) and Fairbanks (Northern Region). There are also highway maintenance offices, design offices, marine facilities, airports, and public buildings scattered across the state. DOT&PF's Web site is located at: <http://dot.alaska.gov>.

ROW employees are located in the headquarters and regional offices.

are also available on the Internet at Workplace Alaska at <http://workplace.alaska.gov>.

Organization charts and position descriptions for ROW are available in the regional offices or from the Division of Statewide Design & Engineering Services at 3132 Channel Drive, Juneau, AK 99801. Position descriptions and qualifications for job series

The following chart gives an overview of the functions of each ROW Group, however regions may organize duties differently. Responsibilities are further detailed in succeeding chapters of this manual.

Position Title or Unit Name	Functions and Duties
Regional ROW Chief (Northern, Central, & Southcoast Regions)	<ul style="list-style-type: none"> • represents their assigned region’s ROW Groups to promote and support statewide and regional ROW interests by coordinating with other State interests, funding partners, regulatory agencies, Department of Law, Legislature, various other agencies, and the public; • supports the Statewide ROW Chief in the promotion, maintenance, and defense of ROW activities, authorities, and obligations through various means including legislation, regulation, policies, and procedures; • supervises and delegates work and authorities to Regional ROW Groups and approved contractors (excluding ROW Review Appraiser); • coordinates early with project design staff by advising on acquisition consideration and challenges; • reviews waiver valuations and Review Appraisers’ Recommendations of Just Compensation and makes the Determination of Just Compensation; • approves administrative settlements for payments above market value; • approves relocations benefits payments; • in cooperation with other approved staff or Appraisal Review contractors approves payments to contractors, property owners (sellers/lessors), lessees/tenants, attorneys, contract negotiators, contract appraisers, and others involved in ROW and property management activities; • certifies projects as ready for construction; and • oversees the online permitting program.
Statewide ROW Chief (Headquarters)	<ul style="list-style-type: none"> • represents Statewide Design & Engineering Services’ ROW Group to promote and support statewide and regional ROW interests by coordinating with other statewide interests and acting as a liaison for the regions with funding partners, regulatory agencies, Department of Law, Legislature, various other agencies, and the public when appropriate; • promotes, facilitates, maintains, and defends ROW activities, authorities, and obligations through the development, advice on, and support of advancing Department-approved ROW-related legislation, regulation, policies, and procedures, including coordinating periodic updates of the Alaska Right-of-Way Manual as required; • supervises and delegates work and authorities to Statewide/Headquarters ROW Appraisal Review staff and Appraisal

Position Title or Unit Name	Functions and Duties
	<p>Review contractors where needed and approves payments to contract Review Appraisers;</p> <ul style="list-style-type: none"> • acts as Statewide ROW training coordinator; • functions as designated Statewide Relocation Officer to facilitate formal, second-level appeal hearings with assistance from the Department of Law and the two regions not involved in the appeal; and • serves as the State’s voting member for AASHTO Committee on Right of Way, Utilities, and Outdoor Advertising and coordinates responses to various AASHTO and industry-related inquiries, except when otherwise delegated.
ROW Pre-Audit Group (Regional)	<p>performs all ROW administrative functions, including:</p> <ul style="list-style-type: none"> • tracking all funding and expenses for ROW Group (staff training and travel; payroll; normal office expenses; and specific project budgets); • preparing parcel review reports; • coordinating with DOT&PF Finance Group to encumber funds; • processing payments to contractors, landowners, fee attorneys, fee negotiators or appraisers, or others involved in the ROW portion of a project; • coding all expenses to the proper ledger accounts according to State and Federal regulations; and • monitoring each project to ensure proper completion of conveyance documents, recording of ROW plans, and proper documentation of eminent domain proceedings (where appropriate); • preparing project close-out files and memo; and • submitting appropriate tax forms to landowners and IRS.
ROW Engineering Group (Regional)	<ul style="list-style-type: none"> • prepares or orders title reports; • prepares ROW plans; • prepares Parcel Plats; • prepares Subdivision Surveys; • prepares Records of Survey; and • obtains platting approval where necessary.
ROW Appraisal Group (Regional)	<ul style="list-style-type: none"> • conducts parcels valuations either in house by waiver valuations or coordinates administration of professional appraisal contracts; • coordinates with Statewide ROW Appraisal Review Group appraisal contractors, and Regional ROW staff to administer appraisal contracts; and • assists the Department of Law on condemnation and other ROW-related matters including providing expert testimony representing DOT&PF where warranted.
Statewide ROW Appraisal Reviewer (Headquarters)	<ul style="list-style-type: none"> • either in house or by contract, exists behind the headquarters firewall to preserve the program’s integrity by preventing influence (including merely the appearance thereof) between negotiators/acquisition agents and appraisers/review appraisers in accordance with the State and Federal laws and regulations; • as the designated expert, provides unbiased quality control by directly receiving and reviewing for compliance all appraisals

Position Title or Unit Name	Functions and Duties
ROW Acquisition Group (Regional)	<p>received by DOT&PF, including both those commissioned or completed by DOT&PF and those provided to DOT&PF through other means;</p> <ul style="list-style-type: none"> • provides guidance on appropriate appraisal scope, specifications, and standards; • coordinates with appraisers to ensure appraisals are completed in compliance with accepted professional industry, State, and Federal standards and the contract scope; • accepts or rejects all appraisal(s) received by DOT&PF, including both those commissioned by DOT&PF and those provided to DOT&PF through other means, and approves only one appraisal per parcel; • provides to the Regional Right-of-Way Chief the Recommendation of Just Compensation for each parcel appraised; • at the direction of the Statewide ROW Chief administers contracts for and approves payments to fee Review Appraisers; • coordinates with Regional Right-of-Way Chiefs to approve payments to contractors Appraisers; • acts as subject-matter expert to provide policy and procedure guidance on Appraisal-, Appraisal Review-, and valuation-related matters; and • assists the Department of Law on condemnation and other ROW-related matters including providing expert testimony representing DOT&PF where warranted.
ROW Relocation Group (Regional)	<p>conducts relocation activities including working with approved relocation contractors and Environmental staff to:</p> <ul style="list-style-type: none"> • prepare relocation studies for use in Environmental Documents; • determine eligibility of displaced entities; • assist property owners in relocation to another suitable property (housing, business, or farm) in accordance with FHWA guidance, industry-approved training, and applicable Federal and State laws and regulations; • inventory and monitor non-residential moves; • inspect and approve replacement housing; • determine amounts for eligible relocation payments; and • review relocation payment forms.

Position Title or Unit Name	Functions and Duties
ROW Property Management Group (Regional)	<p>manages State-owned regional ROW, materials sources, and properties managed, acquired by, or transferred to the department including:</p> <ul style="list-style-type: none"> • carrying out the provisions of the Highway Beautification Act of 1965 on areas in and adjacent to ROW; • making final inspections and taking possession of acquired properties; • arranging for and managing rental of properties after acquisition, where appropriate; • arranging for clearing of improvements from property before construction; • preparing determinations of surplus or excess property and related decisions and transferring or disposing of properties no longer needed when appropriate; • ensuring compliance with various Federal and State property management obligations including tracking, managing, and reporting on various property databases, inventories, and other records.

1.4. Project Funding

For the purposes of this manual, all real estate acquisitions, including those for public facilities, are referred to as ROW.

Funding for DOT&PF projects comes from the following sources:

- Alaska General Fund, through the Alaska Legislature;
- Federal Highway Trust Fund, through the Federal Highway Administration (FHWA);
- Airports and Airways Improvement Act of 1982 and the Airport and Airway Development Act of 1970, through the Federal Aviation Administration (FAA); and
- Federal Transit funding through the Federal Transit Administration (FTA).

1.5. Statutory and Regulatory Background

The U.S. Constitution and the Alaska Constitution require that just compensation be paid to the owners of private property acquired for public use. The Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended applies to all real property acquisitions where Federal funds are involved in any phase of a project that involves these properties. The law has been amended several times, most significantly in

1987 as part of the Surface Transportation and Uniform Relocation Assistance Act (Public Law 100-17) and in 2012 as part of the Moving Ahead for Progress in the 21st Century Act (Public Law 112-141). Together, they are referred to as the “Uniform Act”.

The acquisition and relocation procedures described in this manual are based upon the Uniform Act. DOT&PF's statutory authority to hold title and manage land is contained in [AS 02](#), [AS 19](#), [AS 28.01](#), [AS 28.05](#), [AS 30](#), [AS 34.60](#), [AS 35](#), [AS 41.21](#), and [AS 36.30](#). DOT&PF's authority to acquire real property and to control outdoor advertising are contained in part under [AS 19](#). [AS 34.60](#) deals with relocation assistance and real property acquisition practices.

FHWA was the lead agency in writing regulations involving real property acquisition and relocation. The regulations are based upon the Uniform Act and are contained in [49 CFR 24](#). These regulations apply to all Federal agencies or to any project with any type of Federal funding. DOT&PF has adopted certain portions of [49 CFR 24](#) by reference in [17 AAC 81](#) (Relocation Assistance Services).

In addition to complying with State and Federal statutes and regulations dealing directly with acquisition and relocation requirements, as a condition to receiving funding from FHWA, DOT&PF must ensure compliance with the

provisions of the laws listed in [49 CFR 24.8](#), including but not limited to:

- Civil Rights Act of 1964 (Pub. L. 88–352, 78 Stat. 241, enacted July 2, 1964);
- [23 USC 324](#) (Prohibition of Discrimination on the Basis of Sex);
[23 CFR 200](#) (Title VI Program and Related Statutes—Implementation and Review Procedures);
- [49 CFR 21](#) (Nondiscrimination in Federally-Assisted Programs of the U.S. Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- [49 CFR 27](#) (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance); and
- Rehabilitation Act of 1973.

No person in the United States or alien who is lawfully present in the United States may, because of race, color, national origin, gender, age, income, or disability, be excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination under any activity or program for which the State of Alaska receives Federal funding. The Alaska Department of Transportation & Public Facilities’ compliant Nondiscrimination Policy Statement is available online at http://dot.alaska.gov/tvi_statement.shtml.

Discrimination is also prohibited by the State in the selection and retention of contractors whose services are retained for (or incidental to) construction, property management, and ROW acquisition (including contracts for appraisal services, title reports, and title insurance and disposal of improvements).

1.6. Oversight Agreement

Section 106 of Title 23, United States Code ([23 U.S.C 106](#)) requires FHWA and the State to enter into an agreement to document a new delegation of responsibilities.

This [Stewardship and Oversight Agreement](#) sets forth the agreement between the FHWA Alaska Division and the Alaska DOT&PF with respect to

Title 23 project approvals and related responsibilities, and Federal-aid Highway Program oversight activities.

Several instances are specified in [23 CFR](#) where approval actions differ for interstate projects. See the current Stewardship and Oversight agreement for guidance on ROW project responsibilities.

FHWA’s approval of this Alaska Right-of-Way Manual constitutes FHWA determination that Alaska DOT&PF policies satisfy the provisions of [23 USC 106](#), [23 USC 107](#), [23 USC 108](#), and [23 USC 111](#), and [23 CFR 1.23](#), and the requirements of [23 CFR 710](#) and [49 CFR 24](#), and approves these policies for use on Federal-aid highway projects in Alaska.

1.7. Summary of Project Activities

This section includes a brief summary of the various phases of a highway project. Projects are developed according to the applicable Federal phases. Individual projects may vary and some phases are rarely, if ever, used.

Project phases are generally categorized as follows:

- Phase 0 – Placeholder: This is used to hold funds until they are ready to be allocated, sometimes when match comes from another entity;
- Phase 1 - Unprogrammed Legislative Authority;
- Phase 2 – Preliminary Engineering (Design): This generally includes pre- and post-Environmental Document work through Final Plans, Specifications, & Estimates (PS&E). Some ROW appraisal and acquisition activities may be conducted in this phase with pre-approval of the Regional Preconstruction Engineer, see Sec. 2.2);
- Phase 3 – ROW (some ROW appraisal and acquisition activities may be conducted in Ph. 2 with pre-approval of the Regional Preconstruction Engineer, see Sec. 2.2);
- Phase 4 - Construction;
- Phase 7—Utility Relocation;
- Phase 8 – Statewide Planning & Research; and

- Phase 9 – Other: This category is sometimes used for items such as Planning and Environmental Linkage (PEL) studies.

A more detailed flow chart is available in Chapter 4 of the [Alaska Highway Preconstruction Manual](#). Most ROW activities are accomplished during Phases 2 and 3.

1.7.1. Phase 2

Project development for a Federal-aid highway project begins with FHWA’s Authority to Proceed (ATP) for Preliminary Engineering through Environmental Document Approval or ATP for Reconnaissance Engineering. An approval details the decision on how, or whether, to proceed with project design. Primary activities include engineering and environmental studies to identify and analyze reasonable alternative solutions to the problem or deficiency, and work necessary to produce an approved Environmental Document. ROW work in support of environmental studies is normally performed under the Preliminary Engineering authorization.

ROW’s first involvement in a project generally begins with review of the preliminary design plans to determine property, easement, and permit needs and costs or when the regional Environmental Group requests relocation studies for the proposed project. Using preliminary design plans provided by the Engineering Manager, ROW staff prepare estimates of the probable number of parcels for each alternative, their acquisition and relocation costs, and “incidentals” - the cost of performing ROW activities.

ROW and Environmental staff also assess the number and socio-economic effects of residential and business displacements it causes and report the results to the Engineering Manager.

If there is a public hearing on the Environmental Document where right-of-way acquisition is anticipated, ROW staff may attend and discuss the acquisition and relocation processes.

Under certain circumstances as set forth in Chapters 2 and 6 of this manual, DOT&PF may conduct certain ROW acquisition activities outside their usual phases. In most cases, FHWA issues the ATP through final PS&E after Environmental Document approval. The primary activity is engineering to identify and analyze principal design

features and design elements that will satisfy the project's purpose and need and produce final construction plans and specifications.

Some project support activities include such things as surveys; materials/foundation investigation; traffic/accident analysis; ROW plans; valuations and market data research including relocation studies (see Chapters 2 and 6); environmental re-evaluation; utility agreement development; and (on projects with bridges or major structures) coordination with the Bridge and Statewide Materials Sections.

Once the project has received design approval, the ROW Engineering Group identifies land needs based on design plans and completes a title search for the project (using either staff or a title company) and then prepares the ROW plans based upon project design and title information.

1.7.2. Phase 3

DOT&PF generally requests from FHWA ATP for Appraisal and Acquisition after final ROW plans have been completed, unless this authority was requested under Phase 2. (See Chapters 2 and 6).

ROW activities under Phase 3 generally include the appraising, acquiring, and managing of property and relocating affected parties.

After FHWA has given ATP with appraisal and acquisition, the parcels on the project are valued, either by waiver valuation or appraisal with review) to establish Just Compensation for each parcel.

After approval by the Regional ROW Chief, the ROW Agent contacts each property owner and attempts to acquire the parcels with the offer of Just Compensation. If negotiations fail or title complications exist, and if administrative settlement at a higher-than-market price is imprudent or unsuccessful, eminent domain (condemnation) proceedings are initiated through the Department of Law. These proceedings may significantly affect project schedules and budgets. The proposed acquisition must be for the greatest public good and the least private injury and the Preconstruction Engineer must approve the decision to proceed with condemnation.

Property owners may request construction items be added to the plans. The ROW Agent submits such requests for Engineering Manager approval using

[Memorandum of Agreement \(MOA\)
Form 25A-R605.](#)

If acquiring property necessitates relocating an affected party, the Negotiating Agent and Relocation Agent should be present at the initial meeting with a property owner. These agents will coordinate efforts until the property has been acquired and the party is relocated.

When a parcel with improvements is acquired, the Property Management Group is notified so they can make arrangements to clear the improvements from the property to prepare it for project construction. The Property Manager prepares an inventory of improvements and excess property acquired.

The Property Manager then arranges for clearing the acquired ROW of any improvements, controlling encroachments, and disposing of lands no longer necessary for public use.

When all necessary property rights have been obtained a (or otherwise noted) and all displaced parties have relocation housing made available to them, the Regional ROW Chief certifies the project and signs the appropriate [Project Certification Form](#) that is circulated by the Project Manager before requesting construction authority.