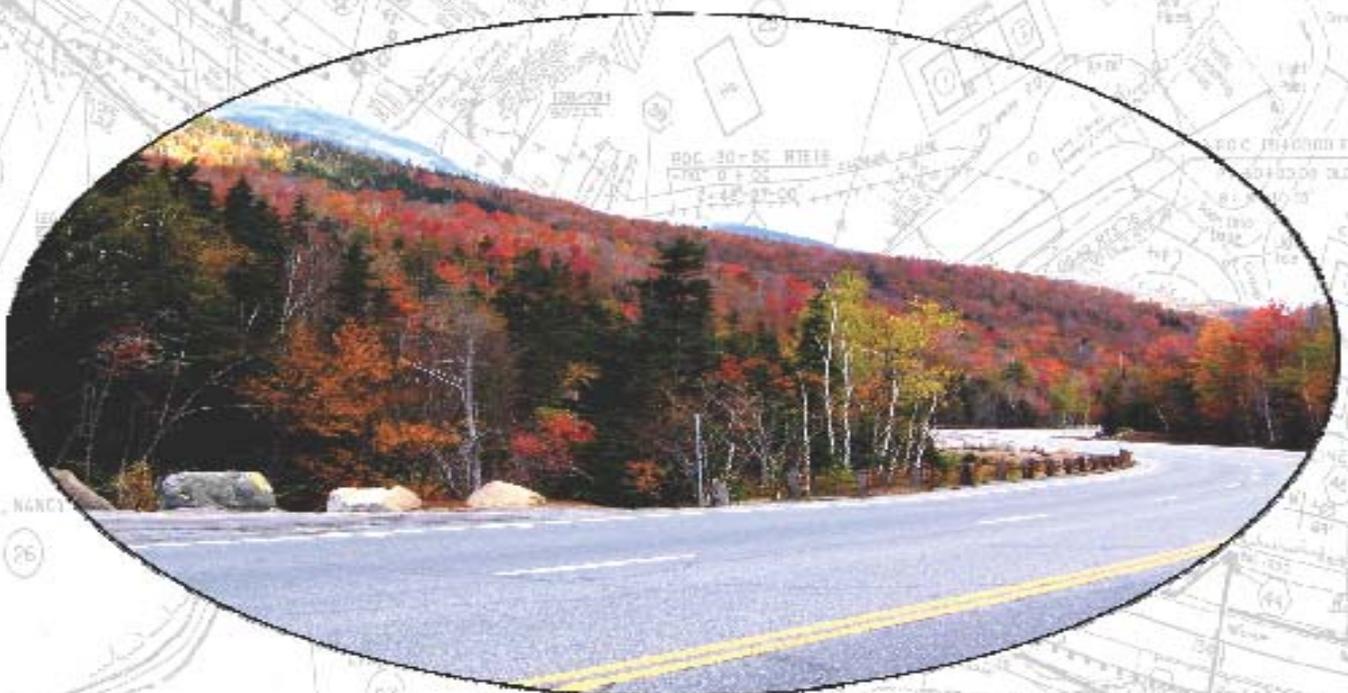




RIGHT-OF-WAY MANUAL



UPDATED 06/20/11

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CHAPTER I

GENERAL

1.01 OBJECTIVES

The objective of this manual is to establish a standard for the management, processes and methods used by the Right-of-Way Bureau of the New Hampshire Department of Transportation.

This manual is intended to serve as a guide to the personnel of this Bureau performing in their official capacity on behalf of the State, to be above reproach in all relationships with property owners and other interested persons or agencies. It is essential that right-of-way and relocation assistance procedures be followed which will result in settlements that are fair to the State and to the property owners.

It is also the intent of this manual to coordinate processes and adhere to the principles under State and Federal Law and Regulations, whereby participation of Federal funds is permitted in right-of-way, and property damage costs. Reference is made to Code of Federal Regulations, 23 CFR Part 710 and 49 CFR Part 24, which may be accessed via the web site www.fhwa.dot.gov.

1.02 ORGANIZATION

The Right-of-Way Bureau is one of eight (8) Bureaus in the Division of Project Development under the direction of the Director of Project Development. The Bureau is located in the John O. Morton State Office Building in Concord.

The Bureau is under the direction of the Right-of-Way Administrator who coordinates the activities of five (5) sections: Land Titles, Appraisal, Acquisition/Relocation, Property Management and Administration. The Administrator oversees the Administration and Appraisal sections. The Right-of-Way Engineer manages the coordination and activities of three (3) sections (Land Titles, Acquisition/Relocation and Property Management). The Administrator of Right-of-Way is directly responsible for the operation of all phases of the Bureau. (See Organizational Chart, Appendix page 151)

1.03 FUNCTION

The Right-of-Way Bureau is responsible for the acquisition, management, and disposal of all real property, or interests therein, under the jurisdiction of the Department. The principle function is the acquisition of rights-of-way for the construction and improvement of the State's public highways and bridges. Chapters 228 through 239 of the New Hampshire Revised Statutes Annotated (RSA) provide authority to lay out highways to meet traffic needs and

outlines the steps for acquiring land for highway purposes. Disposal of surplus land is covered by RSA 4:40 & 228:31 and explained in detail in Chapter 8.

The Right-of-Way Bureau also has the responsibility of aiding in the determination of highway locations by preparing cost estimates on alternate locations and suggesting changes in alignment and grade when it appears that these changes will materially lessen the cost of a project. Field inspections are made on selected projects by the Right-of-Way Engineer, Chief Appraiser, Chief Agent and assigned Agent. These inspections are documented in the project folder.

The Bureau makes all arrangements for project public hearings and prepares a draft copy of the findings for the Governor's Special Committee or Commission appointed to conduct the hearing. The Design Public Hearing determines the finding of necessity for the project. RSA Chapter 230 for state highways and Chapter 231 for Municipalities provide Public Hearing requirements in detail.

1.04 PROCESS

A. GENERAL

The acquisition of right-of-way has become more complex. The access management of the modern highway project introduces many new complexities and problems. New locations result in direct and consequential damages, as well as special benefits. A multiplicity of title interests, such as leases, options, contracts, estates, and mortgages may also complicate the right-of-way process.

The acquisition process can be broken down into two broad categories: Prior to the Public Hearing and After the Public Hearing. The following will explain the process in general and act as a cross reference to the other chapters of this manual.

1. PRIOR TO THE PUBLIC HEARING

During this period a project is in the planning stage. The Bureau is engaged in preparing cost estimates for the various layout options under consideration. The Acquisition/Relocation and Appraisal sections also starts examining the various layouts to determine problem areas and recommend solutions, alternative alignments are typically evaluated as part of the "conceptual study." Data is collected for inclusion in the draft environment document if applicable. The Administrator or the Right-of-Way Engineer will provide input on layouts and assist in determining which alignment will be presented at the Public Hearing. It is also during this period the public involvement process begins via a Public Officials Meeting and a Public Informational Meeting. When projects are small in scale these two meetings are often combined into one.

A title search is made by the Land Titles section (Chapter 3) for each affected owner and property lines, legal ownerships are determined. When the Bureau of Highway Design or Bridge Design notifies the Right-of-Way Administrator that plans and environmental documents have been prepared, the date and time for

the Public Hearing are determined and arrangements are made with the local officials of the municipality or municipalities affected. A “Notice of Public Hearing” is prepared, published in local and statewide newspapers and sent to affected property owners. A relocation plan (Conceptual Study) is prepared in accordance with Federal guidelines outlining proposed construction impacts. The Public Hearing is performed by members of the Department for the Special Committee, Commission or Selectmen depending on whether the State right-of-way is limited/controlled access right-of-way or it is Town right-of-way, respectively.

2. AFTER PUBLIC HEARING

Assuming a finding of necessity is determined and the final environmental document is approved, the Bureau, upon receipt of Right of Way purchase plans, will begin the appraisal process (Chapter 4) for properties involved. Appraisals are developed either by staff appraisers or consultant appraisers. In all cases, appraisals are reviewed and must be approved by staff review appraisers. All estimates of just compensation are based on these approved appraisals.

On many projects it is requested to acquire property in advance of the normal schedule. The advance acquisitions are normally caused by specific hardships and require prior FHWA approval on Federal Aid projects. Early acquisitions typically are limited to complete acquisitions.

Right-of-Way plans are prepared by the Highway or Bridge Design Bureau using the property data and ownerships furnished by the Land Title section. Upon completion and review of the appraisals, the Right-of-Way Agent and the Commission (or selectmen if town right-of-way) meets with each owner and explains the effects of the project on their property and presents the written monetary offer of just compensation or award for impacts. The Agent and Commission also explain and offer any additive payments that the owner may be entitled to, due to being displaced from their home or business. They also attempt to obtain a signed agreement with each owner. If negotiations fail, they explain the condemnation procedures (Chapter 7).

The amounts to be awarded to each property owner are submitted by the Bureau (Chapters 2 and 5) to the Governor and Executive Council for approval. When checks are received from the State Treasurer they are delivered to the property owners for the final closing at which time a Warranty Deed is executed with the owner.

All improvements needed for the project will either be put up for public sale (if salvageable) or demolished as part of the project in accordance with vacating and removal dates agreed to by the Commission.

Prior to advertising a construction contract for bids, a Right-of-Way Certificate is prepared (per 23 CFR 635.309), certifying the project is ready for construction and listing any restrictions. See Appendix pages 174 and 175. The Administrator and Right-of-Way Engineer have been designated by the Commissioner of the Department as the individuals authorized to sign the Right-of-Way Certificate and other supporting documents.

1.05 MUNICIPALLY MANAGED PROJECTS

For transportation projects managed by the municipality, the Bureau of Right of Way is a technical resource to the Bureau of Planning and Community Assistance, where these projects are administered. The municipalities are responsible to certify that all necessary property rights have been obtained. The certification is required prior to the project progressing to construction and is approved and processed through the ROW Engineer. Detailed guidance for the municipalities on Right of Way procedures is provided via the Bureau of Planning and Community Assistance. All municipally managed projects must acquire ROW for federally funded projects in accordance with this FHWA approved ROW Manual and that the Bureau Administrator or ROW Engineer must sign off on their ROW certificates (NHDOT is responsible for the actions/inactions of municipalities for any Title 23 funds administered through the NHDOT).

CHAPTER 2 ADMINISTRATION & RECORDS

2.01 INTRODUCTION

The clerical section is responsible for supporting the various sections in the Bureau. They are responsible for the internal bookkeeping: time and expense sheets including those of the Highway Layout Commission, mileage sheets, leave records, and requisition of supplies. Their responsibilities include notification of public hearings and meetings to newspapers, land owners and other interested parties, processing of the contemplated award checks to property owners or vendors, negotiation paperwork which includes either eminent domain or deed documents, and assisting with relocation documents and payments. The clerical section is also responsible for assisting the property manager with bids for the sale of state owned land and/or the removal or demolition of buildings and other documents. This process includes advertising in newspapers, preparing bid packages and sending information to the public as requested, preparation of deeds and processing of any payments.

General duties include typing of correspondence for the sections of the Bureau and scanning of all material and documents that the clerical section prepares. The Administrative Assistant acts as the scanning coordinator for all other documents coming in to the Bureau for scanning. There are two general categories for scanning into the Right-of-Way Management System, (ROWMS), in attached files, these include project records and individual records. The project record is a project folder, which contains all general project related correspondence and documents. The following are files within the project record or folder: Hearing (with three subfiles: Public Hearing, Informational Meeting and Necessity Meeting); Highway re-establishment; (conceptual reports; preliminary project estimates; special agreements); Correspondence with 5 subfiles: (Appraisal, Public Hearing, Public Informational, Necessity and General); Property Management; Plans; ROW certificate; miscellaneous; photos; project diary and old land file jacket.

Each project folder has a public hearing checklist, which gives a quick status of where the project is in the public hearing/notification process. The individual records were called land file folders or “jackets” and are now called parcel folders in the ROWMS, which contain correspondence pertaining to a specific parcel. Each parcel folder includes any correspondence from or to the Bureau plus a record of any monies awarded to a specific parcel. This award could be for the acquisition of land, a relocation payment, and any payments for legal or recording fees.

Parcel folders are stored by scanning and directly filing into the “Attached Files” module of the ROWMS. Information is referenced by project name and parcel number.

There are three (3) processes in the Bureau of Right-of-Way that are unique to this Bureau and are addressed below.

These processes are:

- A) Public Hearing Process-address notification process (for public hearings and public information meetings)
- B) contemplated award process (to receive checks for acquisition of land, payments for relocation, and out of court settlements, jury verdicts or Board of Tax and Land Appeals hearings)
- C) eminent domain process (needed to acquire land and buildings by condemnation).

2.02 ADDRESS NOTIFICATION (PUBLIC HEARINGS) PROCESS

A. PUBLIC INFORMATIONAL PROCESS

The Bureaus of Highway Design and Bridge Design set up the Town Officials and Public Informational Meetings. The Bureau of Right of Way may occasionally be requested to assist.

B. PUBLIC HEARING PROCESS

There are generally three (3) types of Public Hearings (for the transportation related projects) defined by the body chairing the Hearing.

They are:

- 1) Special Committee Hearing
- 2) Commission Hearing
- 3) Selectmen Hearing

For projects on State highways, a Special Committee or a Commission must be appointed by the Governor and Executive Council to conduct the Hearing. The lead person should send the description of the project to the Bureau Administrator as soon as it is developed. The memo transmitting this should state if control of access is proposed. As soon as the project description is available, a petition can be submitted to Governor and Council. This does not have to wait until a hearing date has been established.

1. SPECIAL COMMITTEE HEARING

A Special Committee Hearing is conducted by members of the New Hampshire Executive Council, chaired by the Councilor within whose District the project is located. This Hearing is to determine the necessity of the layouts for projects where access to the highway is to be controlled or limited. (RSA 230:45).

2. COMMISSION HEARING

A Commission Hearing is conducted by three (3) individuals appointed by the New Hampshire Executive Council to determine the necessity of the layout where access to the highway is not established or restricted as part of the layout (RSA 230:14).

3. SELECTMEN HEARING

A Selectman Hearing or City Council Hearing is conducted by Town/City Officials to address projects proposed for locally owned and maintained highways (RSA 231).

Before sending a Hearing request, the lead person must make sure the environmental documents will be complete. Prior to the Hearing date, the lead person will circulate a "Request for Public Hearing Checklist" form between the:

- a) Design Bureau
- b) Survey and Utility sections of the Bureau of Highway Design
- c) Bureau of Environment
- d) Bureau of Right of Way.

The form requires target dates for various tasks to be completed prior to holding the hearing. The form also requests dates for completing the final design and purchasing right of way. This form assists in the effort to anticipate the project advertising date.

Once the form has been circulated, the lead person forwards a memo to the Administrator of the Bureau of Right of Way requesting a public hearing. The request includes the following:

- A) A suggested Hearing Date, length of presentation boards required, and anticipated attendance;
- B) Basic purpose and need for the project and background information concerning how the project was initiated and the funding involved;
- C) Utilities to be notified;
- D) State and federal agencies and quasi-public interest groups to be notified;
- E) Identification of houses and businesses to be acquired;
- F) Type of environmental documentation and whether wetlands or flood plains are impacted;
- G) A copy of the completed "Request for Public Hearing Checklist" form.

The Bureau will then arrange for the date and location to hold the hearing and prepare notification to officials, agencies and affected property owners.

Just prior to sending notices to the newspapers, the Bureau will contact the lead person to confirm that the Hearing date is acceptable and that all tasks will be completed as required, including the environmental document.

Hearing notices are published at least twice: once thirty to forty (30-40) days and again fourteen to twenty-one (14-21) days in advance of the hearing. Notices are published in the Union Leader (statewide daily paper) and one daily paper in the project area. If there is a weekly paper published in the project area, the notice will be published in that paper.

Department policy requires the draft environmental document be available for public review prior to the Hearing. The Notice of Hearing indicates that the environmental documents are available.

In the event that tasks will not be completed as expected, the Bureau will arrange for a new date and notices will be amended. Again, just prior to publications, the Bureau will confirm the date with the lead person.

If a Hearing date must be rescheduled, the lead person will send a memo to the Director of Project Development detailing why the date is being rescheduled and what the new date is.

Special consideration in terms of lead time must be discussed with the Bureau in the case of Hearings to be held as joint Hearings with the Army Corps and for projects with a large number of affected property owners.

Special Notices: for projects impacting Municipal land used for conservation or recreational purposes, the Hearing Notice must be posted at least 90 days in advance of the Hearing (RSA 4:30a). The lead person needs to provide a description and acreage of the area to be impacted and mitigation required as part of the Hearing Request memo.

If a condominium is involved in the project, notification to owners must be made 30 days in advance of the hearing.

The Bureau conducts socio-economic surveys for the Public Hearing Process. The Chief ROW agent, acting as the Bureau's Title VI Liaison, captures demographic data from each Public Hearing. The demographic data provided by Public Hearing attendees enables the Department to identify impacted residents and communities affected by the Federal-Aid Highway Program. During each Public Hearing the survey is available to each attendee. The Chief ROW Agent analyzes the completed surveys and compiles data for each project.

The clerical section is responsible for filling out a Title VI/EJ Project Tracking form the night of each Public Hearing. This form is later turned over to the Highway Design Bureau Administrator.

Oral testimony received at the hearing is recorded, and written testimony is accepted up to 10 days (with some exceptions) following the Hearing. Oral testimony is transcribed and is generally available in one week. Written testimony is added and is typically available as part of the final Hearing Transcript within 3 weeks after the Hearing date.

Upon receipt of the Hearing Transcript, the Project Manager or Lead Person shall prepare written documentation addressing all meaningful issues contained within the transcript and the Department's response to these issues. Documentation will be in the following format:

- 1) Report of the Commissioner-addresses issues raised at the Hearings, such as the number and location (as appropriate) of access points for abutters, early or total acquisitions, as well as other key issues and requests. The final report requires the signature of the Commissioner.

The process for developing and finalizing the above noted documentation is as follows:

- Project Manager or lead person writes draft document
- Draft document is reviewed by appropriate Design personnel and Administrators of Right of Way and Environment Bureaus
- The lead person revises the document and forwards it to the Commissioner's Office for review by the Chief Engineer and the Directors of Project Development and Operations. A meeting is arranged to formally review all issues and the document's text
- Following incorporation of further revisions, the document is presented to the Director of Project Development for signature(s) as appropriate

The time frame for completing documentation is dependent on the scope of the project. The number of abutters and/or type of environmental study are generally indicative of the scope of the project and the time frame within which documentation can be completed. For minor projects with no significant issues, documentation would be expected to be completed within 4 weeks or less. For others Non-EIS type projects, documentation should be completed within 6 weeks. For major (EIS or large EA type) projects, documentation should be completed within 12 weeks.

Upon receiving a signed document, the Bureau will contact members who conducted the Public Hearing and arrange a Finding of Necessity Meeting to discuss the Department's findings and otherwise formally approve the layout. A meeting with the Special Committee, if required, will be attended by personnel from the Commissioner's Office, the Bureau of Right of Way, Design Chiefs as appropriate, and the Project Manager or Lead Person. For Commission Hearings, the meeting will be attended by personnel from the Bureau, Design Chiefs as appropriate, and the Project Manager or Lead Person. These meeting notices are posted in the Town/City where the

project is proposed. The same newspaper requirements for the Public Hearing also apply for these meetings.

Once approval has been formally obtained (in the form of a signed Report of the Special Committee, Report of the Commission, or Findings of the Selectmen or City Council) the Bureau will forward all documentation to FHWA (assuming federal funding) for inclusion in materials required for Design approval. Full distribution of these documents is made to the appropriate parties by the Bureau.

The Project Manager or Lead Person responds in writing to those individuals who raised meaningful issues or provided written testimony as part of the Public Hearing process. Issues should be addressed as presented in the "Commissioner's Report or Resolution of Issues".

2.03 CONTEMPLATED AWARD PROCESS

The contemplated award process is the process used by the Bureau to issue an award check to a property owner(s) or a claimant(s). Most awards are submitted via the Right of Way Management System (ROWMS) by the ROW Agents, but the Administrative Assistant also submits all out of court settlements from the Attorney Generals Office, Board Findings from the N. H. Board of Tax and Land Appeals (NHBTLA) and Jury verdicts from the N.H. Superior Court.

Once an award is submitted through the ROWMS, it is reviewed and approved electronically by the Chief ROW agent. The award is then forwarded to the Bureau Administrator or the ROW Engineer for review and final approval. Contemplated awards are then forwarded to the Administrative Assistant who checks for the appropriate project name, project number code, and work class code based on the type of transaction. Awards are processed two different ways at this time, depending on each award amount being either under \$5,000 or over \$5,000.

- A) Awards less than \$5,000
For each award that is for \$4,999.99 and under, a payment voucher is processed, and a check is sent to NHDOT, Bureau of Finance and Contracts from the NH Treasury Department.

On a quarterly basis, a contemplated award list (created from the ROWMS) is submitted by the Bureau to Governor and Council for their review. All awards i.e., a property owner, claimant or the NHBTLA are included. On April 1, 1998, a new process was approved at Governor and Council (Approval Item # 85) for the under \$5,000 awards, allowing this retroactive quarterly submittal of award requests.

- B) Awards greater than \$5,000

For each \$5,000 and over award submitted, they go through the same review and approval process in the ROWMS as the under \$5,000 awards. The contemplated award list is submitted

to the Governor and Council at their next scheduled meeting, which are usually two per month. This list is reviewed and approved by the Bureau Administrator or ROW Engineer and then submitted for NHDOT's standard Governor and Council resolution review and approval process, with final approval and signature by the Commissioner. The Department then submits the list for inclusion in the next Governor and Council meeting agenda.

Once the Bureau receives notification from the NHDOT Commissioner's Office (via e-mail) that the contemplated award list has been approved at the scheduled G & C meeting, payment vouchers are processed through the ROWMS and also the Lawson Financial system. The Bureau typically receives this notification the day after the G & C meeting.

For awards \$5,000 and over, the time frame for the whole process of submitting for a check until the Bureau receives the check can take anywhere from six to eight weeks or more, depending on the G & C meeting schedule and when the award was submitted.

The approved award list is mailed out at the same time the payment vouchers are printed out of the ROWMS. They are mailed to the Executive Council, NHDOT internal distribution, other State agencies, and the IRS.

Once payment vouchers are processed and checks are printed at Treasury, they are sent to DOT's Bureau of Finance and Contracts for their review. Once reviewed, the Bureau receives an email that checks are available for pick up and copying. In ROW, copies of the checks are reviewed for accuracy against the original award submitted in the ROWMS. If accurate, the Administrative Assistant will enter the check number and check date into the ROWMS. This prompts an email to be sent to the person who originally submitted the award. When done entering check numbers and dates, the Administrative Assistant keeps one copy of the check with the award backup. This information is scanned into the ROWMS with the copy of the check. The second copy of the check is given to the Agent who submitted the award. That Agent will then go to Finance and Contracts to sign out the check and deliver it to the property owner or displacee. When a check is delivered, the Bureau enters the delivery date, method of delivery and by whom into the ROWMS.

2.04 EMINENT DOMAIN (CONDEMNATION) PROCESS

The preparation of documents for the eminent domain process is part of the condemnation process. Draft documents are prepared by the ROW Agent and submitted to the Administrative Assistant for preparation by the Clerical staff. Information on each condemnation is entered into the ROWMS and then the condemnation packet is assigned to a clerical staff member who creates a folder and a checklist for each condemnation. After the documents are prepared, they are returned to the ROW Agent for review. A copy of the draft Notice of Offer to Purchase is forwarded to Land Titles so that the condemnation plan can be prepared. At this point the draft documents are reviewed by the Bureau Administrator and the memo is signed so that the package can be forwarded to the Attorney General's Office for their review. Also included with the package are a copy of the approved appraisal, the purchase plans and a copy of the title abstract. Once the Attorney General's Office (AG) has reviewed the condemnation package; the draft Notice of Offer to Purchase, the Declaration of Taking and the Notice of

Condemnation are returned to the Administrative Assistant, then entered into the ROWMS. This is used to track the condemnation paperwork.

When completed, the Administrative Assistant delivers the package to the Chief ROW Agent with a note to request the check. The Chief ROW Agent delivers the parcel paperwork to the ROW Agent originally assigned to that condemnation. The Right of Way Agent will review and make corrections as necessary and address any issues. The clerical section checks to see that the Deposit of Damages (award check) is at NHDOT and that the name(s) on the check is/are correct, matching the Declaration of Taking paperwork. The Notice of Offer to Purchase is prepared and delivered by certified mail to all property owners, interested parties and appropriate town/city tax collector(s). The Notice of Offer to Purchase expires 30 days from the day of mailing.

A copy of the abstract face sheet with the expiration date is given to Land Titles so that the update for the title abstract can be scheduled. The final package consisting of the Deposit of Damages (the award check), a copy of the Notice of Offer to Purchase, the Declaration of Taking, the Notice of Condemnation, and letters to the NH Board of Tax and Land Appeals and the Registry of Deeds are prepared by the clerical section prior to the 30-day expiration date. (The expiration date is the earliest date that the Department can file (take title) with the Clerk of the New Hampshire Board of Tax and Land Appeals.)

Once this final package is reviewed and signed by the Bureau Administrator, it is forwarded to the Attorney General's Office at least two days prior to the filing date. On the day of filing, a ROW Abstractor will update the abstract at the Registry of Deeds and if there are no changes, the Attorney General's Office will proceed with the filing at the Board. If there are changes, paperwork is corrected, that day if possible, so the filing can continue.

The Board forwards the original Notice of Condemnation with a copy of the condemnation plan to the Registry of Deeds in the appropriate county for recording. The Board also sends copies for all in-state addresses listed on the Declaration of Taking to the Sheriff's Office of the appropriate county for them to serve. In the case of an out-of-state address serve, the paperwork is forwarded back to the Bureau to prepare to send out by certified mail. This paperwork consists of a letter to each condemnee listed on the Declaration of Taking who lives out-of-state, two copies of the Order of Notice, one with the purple backer/instructions from the Board and copies of the Declaration of Taking for each. When all the certified (green) cards are received from the Post Office for each parcel, the clerical staff completes a Proof of Service letter and attaches the certified cards and the second copy of each Order of Notice and forwards them to the Board of Tax and Land Appeals. If all the certified cards do not come back, the Administrative Assistant or designee notifies the Attorney General's Office for further instructions. When the Sheriff's office serves each condemnee in-state, they will send the Department a bill for payment for each serve with a statement (return of service) which includes the date, time, where and who did the serve. This return of service is forwarded by the clerical staff with a letter to the Board and copies are sent to the Attorney General's Office. When the Department receives the bill for payment each month from the Registry of Deeds, it also receives the original Notice of Condemnation with all the recording information. The clerical section forwards copies of the recorded condemnation to the Attorney General's Office and one copy is also forwarded with a cover letter to the tax collector in the town/city where the

impacted property is located. The clerical section makes sure at this time that all appropriate originals and copies of documentation for each parcel are scanned in the ROWMS as a record of the condemnation.

CHAPTER 3

LAND TITLES

3.01 ORGANIZATION AND FUNCTION

A. ORGANIZATION

The Land Titles Section consists of the Licensed Land Surveyor, a Land Titles Supervisor, and Title Abstractors.

B. FUNCTION

The Land Titles section function is to determine the limits of the State of New Hampshire's existing fee ownership and easement rights in the highway right-of-way. The limits or extents of the Right-of-Way needs to be determined in order to keep proposed work within the State's ownership or to identify the areas of impacts of the abutting parcels. In areas with impacts to abutting parcels a full title abstract for each impacted parcel is conducted to NH Bar Association Title Examination Standards prior to the Public Hearing, purchase or condemnation.

3.02 PROCESS

A. ABSTRACTING PLAN REQUEST

The Right of Way Land Title process is outlined in a series of four levels.

Level 1 is an initial project review by the design team with the Land Titles Section and is completed prior to the survey request. This review will determine how the existing right of way was established and the level of survey work needed to establish the right of way limits. This review will also serve to provide the project team with an understanding of the limitations within the project area. The NHDOT surveyors will do field surveys to locate bounds, iron pins, stone walls and any other feature that will assist the Land Titles Section in defining land along the project route.

Level 2 will accurately set the existing right-of-way limits.

The right-of-way limits will be defined based upon the survey detail, past record projects, returns of layout, and legacy alignments as applicable. The designer requesting this level will supply historical records; as built plans, field books showing alignments and bound layout and ties. This level is completed in order to identify potential areas of impacts beyond the State's ownership and easement rights.

Level 3 develops an Abstract of Title for all impacted parcels. Title Abstractors determines property ownership along with other interested parties, easement holders, mortgage holders, lien holders etc. of the abutting parcels for the proper notification prior to public hearing and for the acquisitions of property and easements. A plan depicting project impacts must be provided by the Design Team with all abstract level 3 requests.

Level 4 request updates the title abstracting to find any changes in property owners, mortgage holders etc. This is required before public hearing notification and prior to purchase plan production and property acquisition. A plan depicting project impacts must be provided with all update requests. This level is also used to request investigation of ROW plan concerns or problems.

B. SURVEY REQUEST

Land Title personnel will acquire property owner information utilizing the appropriate municipalities tax records for all properties within the scope of work identified on the Survey Request. This information should include each property identified by the tax map and lot number, current owner name and address, lot size and deed reference when available. On projects that will involve right of way plan production, as determined in the Level 1 Plan Request, the information is then entered into the Right-of-Way Management System database for property owner notification.

C. TITLE RESEARCH

The purpose of the Title Research is to identify all aspects of each individual property that will need to be addressed in order for the Department to obtain clear title of ownership. To do this, the Land Title Abstractor will compile a report for each impacted property identified by the appropriate design bureau adhering to the NH Bar Association Title Examination Standards. This process confirms the property owner through establishment of the chain of title as well as identifying other encumbrances of record such as mortgages, easements, liens, leases, etc. The Abstractor will also review all survey plans on record within the project area to help identify boundary limits of individual properties. The majority of this research is done at the County Registry of Deeds. Other areas of research may include Probate Courts, which are used to verify passage of title through inheritance. Also, a review of Superior Court records may be necessary for cases involving Quiet title action or divorce.

Title Update:

As the project develops through the design phase, title updates will be necessary. The title update will consist of identifying any new owners of record, encumbrances and /or lot configuration changes due to subdivisions, lot line adjustments or boundary line

agreements that have been recorded after the previous search period of each impacted parcel title report.

D. EXISTING ROW PLAN DEVELOPMENT

The creation of the existing right-of-way plan begins with the Level 2 ROW Plan Request. At this level, all survey detail has been acquired as outlined in the Level 1 review and the existing detail processed in Microstation for use. The person requesting the level 2 plan request will also be providing the survey field books and as-built plans showing the alignment and bound locations. The Land Titles section will now develop the existing right-of-way line work plan, known as the ERL, showing the limits of the existing right-of-way and related easements. The Right-of-Way will now be set and accurately defined based on past project records and survey detail.

In areas where there were past highway layouts and /or a return of layout, property was acquired using offsets to the highway alignment. These past highway alignments are now referred to as legacy alignments. Whenever a project is proposed in an area where there are legacy alignments, the legacy alignment is recreated and tied into the current project in order to determine the limits of right-of-way.

The existing ROW text plan, known as the ERT, will also be created. The properties abutting the right-of-way will be identified with current owner information based on the tax map current owner search that was done for the survey notification. Each property should be labeled with tax map/lot number, acreage, current owner, parcel number and book/page reference. This completes level 2 plan development and is identified as the tax map level because the ownerships and property interests beyond the ROW line were collected from the Town/City tax records. However, because the ROW line is accurately defined, the design team can begin determining the potential areas of impacts for the next level.

Once the areas of impacts are known, the title abstracting of impacted parcels can begin. The title abstract determines the property ownership and limits along with any other interested parties, mortgage holders, lien holders, etc. of the abutting parcels for the proper notification prior to public hearing, and for acquisitions of property and easements. If the scope of project changes resulting in additional impacts this level will need to be redone. Title abstracts will be updated as part of a level 4 requests whenever there are known changes in ownership, prior to the public hearing and prior to purchase plan production.

In conjunction with this effort a list of landowners is compiled for the Public Officials/Public Informational meetings.

E. PUBLIC OFFICIALS/PUBLIC INFORMATIONAL MEETING

As a public relations effort the Department invites public input on the proposed project. At the Public Officials/Public Information meetings the scope of the proposed project becomes more definitive. The municipal officials are invited to comment on the project to help insure that their goals are achieved. The landowners are also invited to comment at this forum to make sure their concerns are taken into consideration. After the Public Officials/Public Informational meeting a plan is created showing the layout and a refined scope of work with actual impacts on the properties along the proposed route. This information is used to produce an accurate Hearing Presentation Plan showing the proposed layout and property impacts. At this time the Abstractor will identify anyone who has any legal interest in the impacted properties.

F. PREPARATION FOR PUBLIC HEARING

The Land Titles Abstractors are responsible for entering all of the title abstracting into the Right-of-Way Management System. This facilitates the production of the Public Hearing notification list. This list includes the landowners, mortgage holders, leases, lien holders and any entity that has any legal right to the subject properties. When this process is complete the Land Title office staff will update the Row Plan with any name changes. This update may include change in ownership, lot configuration, identification of additional easements of record and updated book and page references. This information is used to produce an accurate Hearing Plan.

At this time the Abstractor is identifying anyone who has a legal interest in the impacted properties and a list is generated in the ROW Management System. This list is used to create a certified list for notification for the Public Hearing and is required as part of the Eminent Domain Procedure Act (RSA-498A).

G. PUBLIC HEARING

The Commission takes the comments from the landowners and other groups concerned with the project into consideration. The Department records the hearing and a transcript is produced to insure that all comments and concerns are addressed. The Commission finds for or against the necessity of the layout. The recommendations from the Commission are passed on to the design group or groups responsible for the project and, if feasible, incorporate these recommendations into the design.

H. RIGHT-OF-WAY PURCHASE PLANS

The highway design groups will create the Right-of-Way Purchase Plans showing all necessary property acquisition required for the layout and construction of the highway project. The purchase plans will show the areas needed for the right-of-way and all

permanent and temporary easements. The impacts are listed on the summary included on each sheet.

I. PURCHASE PROPERTY RIGHTS

At this time the property acquisition procedure begins. The negotiators check to make sure that they are working with current abstracts, less than 6 months old, and initiate the contact with individual landowners along the project route. As the negotiators proceed in their process, Land Titles is frequently asked to update titles or retrieve additional information from the registries to verify mortgage information (refinancing, mortgage discharges, bank ownership changes etc.) and any recent subdivision or survey plans. It is common for landowners to offer information to the negotiator during this process. The Title Abstractors will verify that what the landowner has presented, has been recorded at the respective county registry as an official record.

Once all the property rights have been acquired for the project the ROW Agent will verify that all properties impacts shown on the purchase plan have been acquired and a final colored copy of the plan is placed in the ROW plan records.

J. RIGHT-OF-WAY REGISTRY PLANS

Once the purchase plan has been verified the final Right-of-Way Registry Plan can be produced. The registry plans show only the necessary detail required to accurately show the property acquired by the State as required by RSA 230:32. All registry plans must meet the requirements of the Plat Law RSA 478:1a in order to be recorded.

CHAPTER 4

APPRAISING

4.01 THE NEED FOR AN APPRAISAL

The Law of the State of New Hampshire, in particular RSA 498A, section 4, provides that “the condemnor shall have an impartial, qualified appraiser make at least one appraisal of all property proposed to be acquired”. Therefore, appraisals are necessary to furnish the Right-of-Way agent with a well-documented and credibly supported estimate of the damages due each property owner if any for the property required for public purposes.

Public Law 91-646, enacted by the Senate and House of Representatives of the United States of America, cited as the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", as amended by Public Law 100-17, Jan. 4, 2005, states that “Before the initiation of negotiations the real property to be acquired shall be appraised, unless the acquiring agency “determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less, based on a review of available data”.

All impacted parcels will be appraised if there is potential for condemnation. The ROW agent may attempt to make a nominal offer based on an Appraisal Waiver. If the property owner accepts the nominal offer the appraisal request will be terminated. Appraisals are not required for parcels not subject to condemnation unless compensation exceeds \$10,000. Even though the appraisal is waived, the Department must establish and offer an amount it believes represents just compensation for the property to be acquired following the Waiver Valuation process (see section 4.58). The Appraisal Section will provide support for the amount to be offered, which may include sales and/or other market information in the project area.

4.02 APPRAISER QUALIFICATIONS

49 CFR Part 24 (the “Uniform Act”) requires that if a detailed appraisal is necessary, and the Agency employs a contract appraiser to perform the appraisal, such appraiser must be certified in accordance with Title XI of Financial Institution Reform, Recovery and Enforcement Act of 1989. The aforesaid regulation does not apply to salaried employees of any agency of the State Government or local political subdivisions. However it is a requirement that all Appraiser III, Appraiser IV, Appraisal Supervisors and the Chief ROW Appraiser maintain and hold a Certified General Appraisers certification with the State of New Hampshire Appraisal Board.

The usual entry level into the Appraisal Section is as an Appraiser 1. The minimum qualifications for this position are a Bachelor’s degree in Real Estate Appraising, Economics, Business Administration, Engineering, Forestry, Agriculture or a related field plus two years experience in the field of real estate appraisal or sales. The following can be substituted: An associates degree or 2 years of college and 4 years experience in the field of real estate appraisal or sales or at the Engineering Technician IV level.

An Appraiser II must have the foregoing qualifications and four years in real estate appraisal work that has led to a demonstrated knowledge of appraisal principles and techniques. Two years of the preceding must have been at the Appraiser 1 level. The associates or 2 year program must have 6 years of real estate appraisal work, 2 years of which shall have been at the Appraiser 1 level.

An Appraiser III must have the qualifications of an Appraiser II and total 5 years experience in real estate appraisal work covering both urban and rural property, two years of which shall have been at the Row II level. Hold and maintain a Certified General Appraiser certification with the State of New Hampshire Appraisal Board.

An Appraiser IV must have the qualifications of an Appraiser III and total 7 years experience in the real estate appraisal field, three years of which shall have been at the ROW III level, including the preparation of before and after appraisals. Hold and maintain a Certified General Appraiser certification with the State of New Hampshire Appraisal Board.

A ROW Appraiser Supervisor must have eight years of experience in real estate appraisal work covering urban, rural, industrial and commercial property, three years of which shall have been at the ROW Appraiser IV level. Hold and maintain a Certified General Appraiser certification with the State of New Hampshire Appraisal Board.

The Chief Appraiser must have the Qualification of a ROW Appraiser Supervisor and total nine years of real estate appraisal work covering urban, rural, industrial and commercial property, three years of which shall have been at the ROW Appraiser IV level. Hold and maintain a Certified General Appraiser certification with the State of New Hampshire Appraisal Board.

4.03 APPRAISER SELECTION PROCEDURES

At the time a project or appraisal is assigned to the Appraisal Office, the Chief Appraiser makes a determination whether to employ a fee appraiser or use a staff appraiser. This determination is predicated on the workload and complexity of the assignment. Fee Appraisers are employed by the Department of Transportation on a competitive "bidding" process. The Chief Appraiser solicits proposals from approved fee appraisers to appraise selected parcels or projects in a timely manner.

Fee Appraisers' names are placed on a roster of "qualified appraisers" by the Chief Appraiser based on their past record of performing satisfactory appraisal work for the Department, or by the fee appraiser furnishing samples of his/her work done of a similar nature. Those on the roster are then invited to qualify for the "Statewide Contract" by providing proof of the proper insurances and workers compensation coverage. It is from this list that proposals are solicited.

Written proposals of fee and time needed to complete the assignment are usually obtained from three or more qualified appraisers. In some instances proposals are solicited from less than three appraisers. Some reasons for making this waiver include, but are not limited to, availability of fee appraisers to meet Department time schedule, the appraiser's unique

knowledge concerning appraisal problems or the appraiser's geographical location in relation to the site of appraisal assignment.

Request for proposals (RFP) will contain the following minimum **Scope of Work** (This is a FHWA required written statement in every RFP that describes what NHDOT and the appraiser each are to do, and what is the mutually expected outcome of the assignment.):

“Appraisal reports must document:

- The property right(s) to be acquired, e.g., fee simple, easement, etc.,
- The value being appraised (usually fair market value), and its definition
- Appraised as if free and clear of contamination (or as specified),
- The date of the appraisal report and the date of valuation,
- A realty/personalty report is required per 49 CFR 24.103(a)(2)(i),
- The known and observed encumbrances, if any,
- Title information,
- Location,
- Zoning,
- Present use, and
- At least a 5-year sales history of the property.”

The assignment's scope of work should be prepared with input from both the consulting appraiser and the Department.

The selection of those to be solicited is based on the appraisers history of effectively expressing and supporting their estimate of market value as determined through the proper use of appraisal processes. Also reviewed is the appraisers experience and effectiveness as an expert witness in judicial proceedings.

After receipt of the proposals the Chief Appraiser determines which appraiser is to be retained. At this time an appraiser selection is notified in writing.

The administrative details concerning the start, progress, completion, payment, etc. of the services to be performed as per the Statewide Contract are the responsibility of the Chief Appraiser. The technical details as outlined by the specifications made a part of the contract are to be handled by the assigned Review Appraiser.

The Chief Appraiser will abide by the current contracts in the selection, and payment of consultant fee appraisers, and processing of their work product.

The Review Appraiser submits a “performance review” regarding the Consultants work product. This data is reviewed by the Chief Appraiser, filed and used as a future reference when selecting Consultants.

4.04 CONFLICT OF INTEREST

The Appraiser or Review Appraiser shall not have any interest, direct or indirect, in the real property being appraised for the New Hampshire Department of Transportation or any "Local Political Subdivision" that would in any way conflict with the preparation or review of the appraisal.

Compensation for making an appraisal shall not be based on the amount of the valuation.

4.05 MATERIALS FURNISHED APPRAISER

The appraiser shall be furnished a complete set of right-of-way (ROW) plans detailing the takings proposed from each property. If available, the appraiser shall also receive a set of cross-sections together with a relocation advisory, hearing transcript and copies of any special agreements affecting the properties to be appraised. Finally, the appraiser will be given an up to date property abstract detailing the ownership history for the particular parcel(s).

4.06 OPPORTUNITY TO ACCOMPANY APPRAISER

The Uniform Relocation Assistance and Real Property Acquisition Policies Act requires that the property owner, or the owner's designated representative, be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

The invitation to the property owner should be given by the appraiser and documented in the file, preferably in writing, and with sufficient lead time so as to allow the owner to arrange to be there or to request an alternative time. The appraiser must state in the appraisal report the date of inspection and the names of those who participated. The report should also note if the owner declined to accept the invitation.

4.07 CONFIDENTIALITY

Compliance with the confidentiality provisions of the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice is required. The signed certification in the report must contain a statement(s) similar in content to the following: "I have not revealed the findings and results of this appraisal to anyone other than the proper officials of the Department of Transportation of the State of New Hampshire or officials of the Federal Highway Administration and I will not do so until so authorized by State officials, or until I am either required to do so by due process of law or until I am released of this obligation by having publicly testified as to such findings."

4.08 NUMBER OF APPRAISALS

One appraisal report is all that is required except when the Chief Appraiser or the ROW Team, consisting of the Chief Appraiser, ROW Engineer, Appraisal Supervisor and the ROW Bureau Administrator determines otherwise. A second appraisal may be necessary if it is a complicated appraisal or if the estimate of damages is difficult to assess.

4.09 MORE THAN ONE APPRAISAL

A second appraisal and even a third opinion may be required when one or more of the reports cannot be brought into compliance with appraisal standards or Department specifications during the Review process. A second report may be commissioned if, in the judgment of the Chief Appraiser, the degree of difficulty warrants it and a third may also be commissioned if the disparity between the original two is too great to be reconciled.

4.10 FAMILIARITY WITH PLANS

When assigned to a project where there are "partial takings", it is essential that the appraiser become thoroughly familiar with construction plans to determine the relation of the finished road to the remainder of the properties involved. On new locations or when the grade line of the existing road is changed through reconstruction, the appraiser should be aware of the cut or fill along the properties being appraised to judge the effect of new construction or of changes in grade. Other items to be noted include the limits of construction and right of way requirements as they may affect improvements, landscaping, and operations. The appraiser should check the means of access provided for each property and where excessive damages are anticipated because of access restrictions or for any other reason he/she should discuss the matter with the Chief Appraiser and/or the Appraisal Reviewer. The appraiser should make no assumptions as to access or other plan provisions without written instructions from the client, but rather clarify any questionable situation prior to proceeding with the appraisal of the property involved. The appraisal must be based on the plans as provided or upon approved changes.

The appraiser should ask the property owner about the possible existence of underground facilities such as pipe lines, water lines, septic tanks, drain tile, sanitary sewers, etc. Estimates of cost should be obtained for any necessary adjustment to privately owned facilities.

4.11 OWNERSHIP CHANGES

In the course of the appraisal work, the appraiser may discover ownerships at variance with those shown on the right of way plans. This may be due to a time lapse, sale of a portion of a particular property, or for some other reason. When necessary the appraiser should request revised descriptions from the Right-of-Way Land Titles Section and an updated set of plans.

4.12 SPECIALTY REPORTS

A detailed appraisal may include the findings of a specialty report. A specialty report is a study of some aspect of the property that does not normally fall within the expertise of the real estate

appraiser. These include but are not limited to, machinery or equipment, mineral rights, forestation and engineering details, especially those related to cost to cure.

The specialty reports will be commissioned by the appraiser with the concurrence and approval of the Department's Chief Appraiser.

4.13 ALTERNATE APPRAISALS

Alternate estimates of value should be prepared by the appraiser in those situations involving remainders of properties acquired for right of way.

A. Uneconomic Remainder

In the design of highway right-of-way limits an uneconomic remnant may be created. The "Uniform Act" requires that an "offer to purchase" such remnants must be made. The owner need not sell such remnant so the appraisal should express both alternatives.

B. Landlocked Remainder

Normally these situations will be found and set out by the right of way designer. He/she will ask for an estimate of the value of the remainder to be weighed against the cost of providing access. If the cost of access exceeds the value of the land or damage arising from lack of access the Department has the authority to acquire the landlocked parcel. In those instances where a landlocked parcel is discovered by the appraiser, the Design Section shall be advised.

C. Improvements in Taking

In many instances, improvements located within the taking can be moved rather than acquired. However an "offer to purchase" must be made. The owner may elect to repurchase the improvement at the Department's salvage value and remove it from the proposed right of way at their own expense.

D. Carve Outs

"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. The regulations seek to avoid penalizing a person who is situated on a site that is either larger than typical for residential use or is actually occupied and used for other purposes. If the excess land area (i.e., excess to what is typical for residential use in the area) is not "carved out" of the acquisition price when computing the replacement housing payment, then the displacee is penalized by contributing the value of this excess land toward the purchase of a comparable replacement dwelling and site.

There are three basic elements required in performing a carve-out calculation:

1. Determine whether the subject property includes area (land and/or improvements) that is excess to the owner-occupant's residential use.
2. Survey the area to determine what constitutes a tract that is typical in size for residential use in the area.
3. When applying the typical tract to the subject, use only that portion of the total acquisition price (land, improvements, damages) which represents the dwelling and typical tract.

4.14 PROPERTY OWNER NOTIFICATION

All property owners of parcels requiring appraisals (where there has been a public hearing) will be initially notified by a letter informing them that an appraiser will be contacting them to make an appointment to inspect their property. The letter will explain the appraiser's responsibility to evaluate the impacts the proposed acquisition will have on their property and estimate the amount of compensation they should receive as a result of that acquisition. The appraiser will explain to the property owner the specific impacts to their property and attempt to answer any questions they may have.

The letter will also inform them that there is a State of NH Law (RSA 498-A:4IIb) which provides property owners reimbursement to hire their own appraiser to value impacts resulting from State projects.

The following requirements must be incorporated into any property owner supplied appraisal to qualify for cost reimbursement from the State:

The appraiser completing the report must be either a Licensed or Certified Appraiser by the State of New Hampshire and should have partial acquisition condemnation appraisal experience.

The appraisal must conform to the most recent editions of the US Dept. of Transportation Uniform Relocation Assistance and Real Property Acquisition Policies Act (1970) and 49 CFR 24.102, 103, "Uniform Standards of Professional Appraisal Practice", USPAP, and the "Uniform Appraisal Standards for Federal Land Acquisitions" UASFLA. The appraisal can be either a "Self-Contained" or "Summary" report. "Restricted" reports are not acceptable.

The appraisal must value the impacts the proposed road improvements have on the particular parcel or property.

4.15 VALUATION OF TENANT-OWNED IMPROVEMENTS / Furnishing, Fixtures & Equipment (FF&E)

FHWA-HEP-05-030, Acquiring Real Property for Federal and Federal-aid Programs and Projects gives the following guidance the valuation of tenant-owned improvements:

“Sometimes tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. If, under State law, the improvements are considered to be real property, the agency must make an offer to the tenants to acquire these improvements as real property.

In order to be paid for these improvements, the tenant-owner must assign, transfer, and release to the agency all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements.”

“For an improvement, just compensation is the amount that the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever amount is greater.”

Complete acquisitions from businesses may include some property types that having items such as furniture, fixtures, and equipment plausibly classified as either personalty or realty. In such cases, Senior Appraisal and Relocation Staff from the department (or senior ROW consultant’s staff working on behalf of the department) contact the fee simple property owner and set up an appointment to jointly inspect the subject property. This process should be initiated prior to the appraisal procurement process.

The intent of the inspection is to compile a list of personalty and realty items identified during the inspection. The purpose of this process is to reduce the possibility of error or miscommunication among the appraiser and relocation agent, ensure double-payments do not occur and displacees receive all compensation and benefits to which they are entitled. It is also hoped that this process will expedite both the appraisal and relocation processes and may also foster goodwill through displacee involvement.

If tenants will be displaced, the fee owner should be asked for permission to invite the tenant(s) along on the inspection. If tenant participation is refused, discussion of personalty / realty items with the tenant will have to wait until negotiations are initiated.

The list of personalty / realty items will be specifically used:

- for inclusion in the appraisal bid package for the subject property
- for inclusion in the Agency’s appraisal of the property
- for inclusion in the property relocation file
- to provide a copy to the displacee

4.16 JUST COMPENSATION

Just compensation is the price NHDOT must pay to acquire real property. The ROW Bureau Administrator or ROW engineer must approve the estimate of just compensation to be offered to the property owner for the property needed. That amount may not be less than the amount established in the approved appraisal report as the market value for the property. If the

property owner and the agency cannot agree on the amount of just compensation to be paid for the property needed, and it becomes necessary for NHDOT to use the condemnation process, the amount determined by the court will be the just compensation for the property.

4.17 APPRAISAL RELATED DEFINITIONS

Market Value: The Uniform Appraisal Standards for Federal Land Acquisitions, A, A-2, page 3, defines Market Value as: “Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.”

Appraisal: “The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.” – 49 CFR 24.2(a)(3) (*Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*)

For additional definitions please refer to the Uniform Standards of Professional Appraisal Practice.

4.18 RIGHT OF WAY MANAGEMENT SYSTEM, APPRAISAL SECTION

The ROW Appraisal Section, after receiving ROW purchase plans, has the following data entry responsibilities for inputting data into the ROW Management System:

Select project & assign the applicable construction project

Select parcels with impacts

Area of Impact enter fee & easement areas

Property type, is property duplicated in another construction project, complete or partial acquisition, building taken or not, assign associated parcel or parcels if applicable

Carve out or not, improved or not, requesting office, requested by, report to, type of appraisal, reason for appraisal

Fee appraiser or staff, if fee appraiser appraisal firm & appraiser, if staff appraiser supervisor and appraiser, date to supervisor, date to appraiser, estimated date of completion, if fee appraiser RFP appraisal fee

Estimated values, date received, before value, after value, damages, allocation of damages – land acquisition, easement value, improvement taken value, severance (cost to cure or diminution), total damages

Reviewer – fee reviewer, date to review, review firm, review appraiser, fee quote. In-house reviewer, date to review, supervisor, reviewer, date to supervisor, date to reviewer, estimated date of completion

Final Values, effective date of appraisal, before value, after value, damages, allocation of damages – land acquisition, easement value, improvement taken value, severance (cost to cure or diminution), total damages

Appraisal status, active, resigned to different appraiser, hold, terminate, date, office, by, reason

Copies of all correspondence, completed forms, appraisals and photographs will be placed in the appropriate folder in the attached files section of the ROW Management System.

4.19 OPINION OF VALUE

The opinion of value is prepared in the form of an appraisal or valuation range that should contain the facts and reasons considered by the appraiser in developing the conclusion of value.

For reference, the general appraisal elements considered essential to an adequately supported opinion of value are enumerated in 49 CFR, 24.103. (With changes of 1/4/2005)

4.20 DETERMINATION OF THE LARGER PARCEL

“Determination of the larger parcel must be in accordance with the guidelines set forth in the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

It is essential to a partial taking and to the application of the rules on severance damages and special benefits that the land acquired be part of a unitary holding (a "whole"), commonly referred to as the larger parcel. It is often difficult to determine what constitutes the whole property comprising the part acquired and the remainder, in particular when there are vast acreages or non-contiguous parcels involved. Because of this difficulty, tests have been established to determine the larger parcel:

- 1) There must be a unity of ownership in all parts of the whole.
- 2) There must be a unity of highest and best use for all parts of the whole.

Historically, to satisfy the requirement of unity of ownership, title to all parts of the whole had to be vested to the same extent in the same persons. It has been ruled that unity of ownership was lacking when the owner has different interests in the two or more tracts, as, for example, when one tract is owned in fee simple, a leasehold interest is held in a second tract, and the

owner holds all of the stock in a corporation that holds title to a third tract. Likewise, unity of ownership has been ruled lacking when one tract was owned by a husband and the second was owned by his wife, or where one was owned by the father and the other was owned by the son. However, in more recent cases some courts have found a single larger parcel even though the quality of the title was not identical. For example, a single larger parcel was found when the interest in one tract was an easement and the interest in the second tract was a leasehold. In another case, the court found that three tracts constituted a single larger parcel even though each tract was owned by a different corporation, because ownership of all three corporations was held by the same individuals. But even in these more recent cases, legal control over the ownership and future of the lands in question was required to meet the unity of title test. Whether the quality of the interests held in different tracts is sufficient to meet the unity of title test is, of course, a legal question, and the law on this issue appears somewhat unsettled.

Thus, appraisers must seek advice of legal counsel any time they conclude that a single larger parcel exists when the ownership interests in all parts of the whole are not identical. While it has been found that, to meet the unity of use test, all parts of the whole must actually be devoted to a unitary use, the weight of the law is that to meet this test the lands in question merely have to have the same, or an integrated, highest and best use. If the uses are dissimilar, no allowance can be made for severance damages or special benefits. While holding that it is not essential that parcels be contiguous, physical proximity has usually been considered to the extent that it bears on the physical and economic practicalities of a single unitary highest and best use. Appraisers must bear in mind the distinction between a residue of a tract whose integrity is destroyed [or impaired] and what are merely other parcels or holdings of the same owner.

The appraiser's analysis that led to the larger parcel determination and the determination itself must both be reported. The appraiser's conclusion as to the larger parcel may sometimes be different from the specific parcel he/she was assigned to appraise by the Department. In such an instance, the appraiser shall inform the Department of his/her determination of the larger parcel and the appraisal assignment may upon review be revised and or amended accordingly. Appraisers must bear in mind that the determination of the larger parcel is required in every appraisal assignment; irrespective of whether the agency has designated an acquisition a total acquisition or a partial acquisition. This is so because, from a practical standpoint, whether an acquisition is a total or partial acquisition cannot be determined until such time as the appraiser has made a determination of the highest and best use, and the larger parcel.

By applying the rules for larger parcel determination, as described above, it is possible that two physically separate tracts may constitute a single larger parcel, or conversely, a single physical tract may constitute multiple larger parcels. This can be important not only in consideration of damages and special benefits, but also in the appraiser's selection and comparative analysis of comparable sales. It is recommended that the appraiser begin an analysis of the unity of ownership test with the premise that, in making his/her larger parcel determination, it is allowable to consider all lands that are under the beneficial control of a single individual or entity, even though title is not identical in all areas of the tract(s). If the appraiser then concludes that the larger parcel constitutes lands that are under the beneficial control of a single entity, but title is not identical, the appraiser's larger parcel determination, together with the facts upon which it is based, should be submitted to the Department for review before the

appraiser proceeds any further. Based on applicable case law and the facts of the case, legal counsel can then determine whether, as a matter of law, the unity of ownership test of the larger parcel is present, and provide written legal instructions to the appraiser accordingly.”¹

4.21 HIGHEST AND BEST USE

In estimating the property damages to the property to be partially taken if any, the owner is not limited to the value of the property for the purposes for which it was actually being used. The valuation of property should be based upon its most profitable legal use. Any reasonable future use to which the land might be adapted or applied may be considered in arriving at the present market value. This is distinguished and separate from the owner's conceptual and/or vague plans or hopes for the future that may be unsupported as of the date of the appraisal.

Highest and best use, briefly defined, is the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. A property's highest and best use is based on the following four criteria:

- 1) The property must be physically adaptable to such use.
- 2) The property should be legally available for such use.
- 3) The proposed highest and best use should be financially feasible.
- 4) The proposed highest and best use should be maximally productive.

The determination of the highest and best use is one of the most important elements of the appraisal. If it is incorrectly determined, then the whole appraisal is likely to be wrong. This is often the main reason for wide divergences in valuations between appraisers on the same property. The appraiser is required to explain how the estimate of highest and best use was determined. Support for the conclusions should take into consideration; zoning, land usage, supply and demand forces at the time of the appraisal, market conditions, future expectations in the market, the availability of capital, and demands for the use determined most likely to occur.

The value of property for the use to which reasonable persons would devote it, if owned by them, must be taken as the ultimate test.

4.22 REASONS FOR DOCUMENTATION OF APPRAISALS

In view of the fact that almost all appraisal assignments present a varying appraisal situation, it is impractical to present a set of rules that will result in an appraisal report that is understandable to everyone in every instance. Keep in mind, however, that each appraisal must be a complete entity in itself and should require no additional documentation or explanation to support the values assigned.

¹ ALDOT ROW Manual

The appraisal report should be written so that the client and intended users may read the report, examine the photographs and plats, and conclude with a thorough understanding of the property and of the reasoning of the appraiser. If the report does not lead to such understanding, then the report is either ambiguous or deficient in content.

The necessity for detailed documentation in an appraisal is readily apparent, when one bears in mind the various uses to be made of the appraisal report. These uses include the following:

- 1) Assure the review appraiser that the value conclusion of the appraiser is adequately supported.
- 2) Inform the ROW agent of all pertinent facts prior to negotiation with the property owner.
- 3) Provide convincing evidence of value for presentation to the owner by the negotiator.
- 4) Advise the Right-of-Way Division of all pertinent facts in the event of condemnation and bear up under cross-examination.
- 5) When Federal participation is expected in the cost of right-of-way, the reports are subject to inspection and review by the Federal Highway Administration Right-of-Way officers and auditors.

4.23 DOCUMENTATION OF APPRAISALS

Proper documentation provides the necessary ownership record, location and description of property, purpose of appraisal, and proper methods in approaches to value supported by computations used, complete market data for comparables, identifying photographs, property sketches, and conclusions with justification therefore, as outlined in 49 CFR 24.103. (March 2, 1989) & (6/1/93)

Appraisals shall be independently prepared, typewritten and dated and signed by the individual making the appraisal prior to being submitted for review.

Each appraisal report shall contain an appraiser's certification incorporating as a minimum the requirements in Standards Rule 2-3 of the Uniform Standards of Professional Appraisal Practice. A new certificate shall be prepared where there is a change in the appraisal report that affects the estimate of value or changes the date of valuation.

In estimating the market value for the acquisition of real property, appraisal reports shall disregard any decrease or increase in the market value of the real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner.

Documentation of estimates of value (either the before, the after, or the acquisition value), of damages, and/or of benefits shall be by the most applicable and appropriate means available. If support for the after value by the usual methods of market or income data or indications from severance damage studies is not feasible, the appraiser shall so state and explain why it is not feasible. In such instances, the appraiser must then fully explain the reasoning for the after value estimate.

Computations used to develop the various approaches to value and elements of damage shall be shown in the appraisal report.

Comparable sales shall be verified with one of the principals involved in the sale or with their authorized representative. Date of sale, names of grantee, grantor, legal description, area, types of improvements, consideration paid, motive of seller and purchaser, unusual financing arrangements and photographs of significant features of the sale shall all be made a part of the appraisal report.

The owner of a subject tract or their designated representative shall be given an opportunity to accompany the appraiser during the inspection of the subject property. In those instances where the property is owned by an "absentee owner" every effort must be made to contact this person, usually by mail, for either an appointment at a reasonable time, or an appointment and inspection with the representative. A "log" of these contacts, inspections, etc. must be made a part of the appraisal. The date the owner was contacted and their telephone number should be included in the appraisal.

4.24 PARTIAL ACQUISITION APPRAISALS

If the proposed ROW impacts to the subject property are measurable by way of market analysis the appraiser will complete a self-contained appraisal of the property before the acquisition and a 2nd appraisal after the acquisition. Since the state of New Hampshire is a "federal rule" state damages are estimated by the difference between the appraisals of the subject before and after the proposed acquisition. Partial acquisitions can be some of the most challenging appraisal assignments an appraiser can have. The appraisal of the before value must not reflect any influence the proposed NHDOT project will have on value. It is important that the appraiser correctly analyze the highest and best use of the property in both the before and after valuations. Significant severance damages can occur when the highest and best use changes as a result of the acquisition. The after valuation should reflect any influence the proposed NHDOT project will have on value.

If there are improvements within the proposed take area such as signs, fencing, stone walls, etc. the appraiser should obtain a list of items NHDOT will relocate. If the improvements are not scheduled to be relocated, their contributory value should be included in before valuation.

4.25 ALLOCATION OF DAMAGES

Condemnation appraisals should contain an independently supported land valuation exclusive of the improvements. The appraiser is also required to provide an overall valuation analysis (land and improvements). If a building or other improvements(s) are situated on land being taken for highway purposes or partly situated thereon, the appraiser is to allocate value to the land and a separate value for the structures and improvements. In summary, having arrived at total damages, the appraiser shall allocate total compensation between the individual component parts based upon the contributory value as part of the whole.

Damages should be allocated to whatever rights were acquired i.e. fee taking, easements and improvements. The rights acquired are also known as the “part taken”. Severance is the diminution of the market value of the remainder. It is calculated by deducting the part taken from the difference between the before and after valuations. The appraiser shall identify the source of the severance. Some common sources include: i.e. proximity, change in highest and best use, change in shape, change in size.

4.26 EMINENT DOMAIN APPRAISAL STANDARDS AND REPORTS

Formal, written valuation reports are required for each parcel of land to be acquired or damaged, unless donated or if the magnitude and complexity of the acquisition indicate that an appraisal is not necessary. These will be in the form of either a “Complete Take Appraisal (CT), a “- Land Value Appraisal” (LVA), or a “Before and After Appraisal (B&A)” report.

- A. For a “Complete Take Appraisals” (CT) the submitted report must be suitable as an exhibit for court purposes and must meet the current requirement of Summary or Self-Contained appraisal reports as defined by the Uniform Standards of Professional Appraisal Practice and 49 CFR 24.102-103 (The Uniform Act).
- B. “Land Value Appraisal ” (LVA) LVA may be used to value all properties where the taking has no measurable adverse effect on the remainder. Before completing an LVA, an appraiser is required to do a thorough analysis of the property to determine that there are no damages as a result of the taking. The purpose of an LVA is to estimate market value of the *land only* involving NHDOT acquisitions. In addition to fee acquisitions, LVA appraisals can also be used for part taken allocations of temporary and permanent construction, drainage, slope, access, and other easements sought by NHDOT if the appraiser determines no measurable adverse impact on the remainder. The Land Value Appraisal should:
 - 1) Summarize the description of the subject property based on a physical inspection (the physical inspection should include an interior and exterior inspection of all improvements, assuming the property owner grants permission)
 - 2) Include photographs of the subject property

- 3) Summarize a description of the acquisition. Include a plan of the taking and remainder.
- 4) Include a description of the effect of the taking on the remainder
- 5) Summarize and support the rationale for the opinion of the highest and best use of the real estate both before and after the taking
- 6) Adequately describe why the taking does not diminish the value of the remainder
- 7) Satisfy USPAP requirements for a Summary Appraisal of the site value as vacant. Include a grid sheet showing adjustments to the sales, indication of value of the subject by each sale followed by a correlation and conclusion of site value for the subject. The basis for the adjustments does not need to be included in the report but should be in the work file. Based on the site valuation, complete a pro rata allocation for the fee taking.
- 8) If easements are temporary, fee value per unit is multiplied by the easement area after making a reasonable percentage allocation representing the impact of the easement on the fee simple ownership position. The allocated per square foot (or per acre) value of the part taken is multiplied by the land capitalization rate resulting in an annual ground rent. The estimated annual ground rent is then multiplied by the length of the proposed duration of the easement (not the expiration date of the easement) resulting in an allocation of the part taken for the temporary construction easement.
- 9) Include a copy of the legal description
- 10) If the property owner rejects the NHDOT offer and appeals to BTLA (NH Board of Land & Tax Appeals) a Self Contained “Before & After” Appraisal Report should be completed by the appraiser.

C. For a “Before & After Appraisals” (B&A) the appraiser must employ a full narrative report based on detailed highest and best analysis of the subject parcels in the before and after condition. The submitted report must be suitable as an exhibit for court purposes and must adhere to the criteria mandated by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (1970) and 49 CFR 24.102, 103. Additionally, the submissions should fulfill the guidelines for “complete appraisal/self contained reports” as described in Standards 1 and 2 of the Uniform Standards of Professional Appraisal Practice (current version).

“Before and After” appraisal format is always used in those instances when the acquisition causes a diminution of value to the remainder. The following information and analysis should be included in a “Before and After” appraisal:

1. A valuation of the entire property existing prior to the proposed acquisition, disregarding the project influence or reason for the acquisition.
2. A discussion of the real property, personal property and/or rights to be acquired.
3. A discussion of the physical and functional effects of loss of the real property and/or personal property.
4. A property description, which may be in abbreviated form, as existing after the removal of the acquisition. Where no changes have occurred, reference may be made to the earlier descriptions.
5. An analysis of Highest and Best Use of the property after acquisition. Both an analysis of the land as vacant, and an analysis of the property as improved are required.
6. A valuation of the property as existing after the acquisition. This often uses the same valuation approaches as developed in the before acquisition analysis. A complete analysis must be indicated. Use of Costs to Cure, where such costs are less than the reduction in value if not cured, is acceptable. Such costs should be based upon documented estimates.
7. If the same sales comparables are used in both the before and after analysis the appraiser must provide market justification for the adjustments made to the comparables in both the before and after analysis.
8. A statement as to conclusions reached.
9. It is not a recognized appraisal practice to produce an After acquisition value by subtracting the estimated value of acquisition and damages from the Before acquisition value conclusion. Doing so does not value the diminution in value of the property and misrepresents the part taken valuation estimate.
10. Summation appraisals are unacceptable and a violation of USPAP. It is not acceptable to simply sum the unadjusted value of separate parcels of a property in arriving at the Before or After value opinions.

- **Identification and legal description of property appraised**

The property is typically identified by a street or rural address, or, if a vacant property, by a street name plus the tax map and lot number. The legal description is typically shown in the title abstract as provided, or as shown in the most recent conveyance documents. While effort is made to provide the appraiser with a proper definition of the “Parent Parcel”, it is the appraiser’s responsibility to note any potential problems in the “Parent Parcel” legal description and to discuss the need for possible revisions with the

Chief Appraiser, or their supervisor. Lengthy legal descriptions for subject properties and sale comparables may be abbreviated.

- **Date of value estimate**

Most frequently, for purposes of appraisal, the date of inspection is used as the valuation date, although often it may be fixed at some prior or future time. Appraisals for condemnation appeal shall be as of the date of taking. The Appraiser is responsible for valuing a property in its actual condition as of the stated date of valuation. If significant time has elapsed between the date of appraisal and date the appraisal will be submitted to NHDOT the appraiser should make every effort to reinspect the subject property and provide a date of appraisal reflective of current market conditions.

- **Description of the community and neighborhood.**

A description of the physical, amenity, and economic factors of the community and neighborhood must be included. The description should concentrate upon those factors that have an affect upon the current market value of the property or properties appraised. An analysis of how and why these factors are affecting value should be included. Extraneous material not related to the appraisal problem is not appropriate.

- **Description of characteristics of property appraised**

The physical description of the tract shall address all relevant characteristics of the site including size, shape, topography, drainage, agricultural suitability, soil characteristics, and accessibility.

The physical description of improvements shall address all relevant characteristics of the improvements including type of improvement, use or occupancy, size, shape, style, construction materials, finish materials, quality, condition, obsolescence and adequacy factors, location on the tract and, if appropriate, recent rental history.

A detailed and accurate description of all property attributes is necessary. Items of depreciation or obsolescence should be detailed. All items of importance in the valuation sections should be introduced and discussed.

All buildings, structures and other site improvements must be identified and described, even though they may not significantly contribute to the value of the property.

All fixtures and property included in the valuation must be listed and described in such a manner as to facilitate their identification by others. (See also section 4.15 above)

- **Discussion of existing limitation to fee ownership.**

Existing limitations to fee ownership of the real property being appraised should be discussed. Some examples include:

- Zoning restrictions, and the reasonable likelihood of zoning changes, not dependent on the project for which the property is to be acquired.
- Existing easements, both recorded and obvious adverse possessions.
- Leases and tenants. Terms for both written and verbal tenancies should be noted. Copies of written leases should be included.
- Lack of other ownership rights such as mineral rights or the right to conduct certain types of business, etc.

- **Statement regarding to possible existence of hazardous substances or contamination on the site.**

A statement as to the knowledge, suspicion, or presumed existence of: ground water contamination, petroleum storage tanks, chemical storage or other possible contaminants in or on property, or, a statement that the property appears to be uncontaminated, is required.

- **Identify and analyze the highest and best use of property appraised, both if vacant and as improved.**

Highest and best use is defined by The Appraisal of Real Estate - as "the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value." The Highest and Best Use section of the appraisal report should be in compliance with Standards Rule 6-3 of the Uniform Standards of Professional Appraisal Practice.

Where the Highest and Best Use is considered to be for development, there must be a discussion of the supply of and demand for similar development land, together with a supported absorption period for the subject.

- **Statement as to property rights appraised.**

All eminent domain appraisals for NHDOT should value the fee simple interest not subject to easements, (unless they are NHDOT easements), liens and encumbrances such as mortgages or leases. However, the appraiser is to consider reservations or restrictions, be they public or private, such as rights of way, flood/navigational easements, and aerial easements, etc.

If easements are acquired in the taking the value of easement should be estimated. An allocation should be made between the property owner and each easement holder property rights.

- **Approaches To Market Value**

In estimating the current market value of property, the appraiser should, whenever individually applicable, use all three basic approaches to value as will be discussed. The type of property to be appraised will govern the approach or approaches that should be relied upon. The weight given to, or the necessity for, any one approach depends on many things, some of which are:

- 1) Market trends at the time of valuation.
- 2) The amount and quality of available comparable market data.
- 3) The highest and best use of the property.
- 4) The age and condition of the improvements and the amount of physical deterioration, and functional and economic obsolescence if any.

- **Cost approach and analysis, if applicable.**

The cost approach is applied as an indication of market value by estimating the reproduction or replacement cost of new improvements, deducting the accrued depreciation, adding entrepreneurial profit if supported in the marketplace, and then adding the value of the land as independently determined by market sales comparison or by a residual process.

The cost approach is generally considered most pertinent in the valuation of special purpose and institutional properties. It can be considered most reliable when improvements are new and the property is being put to its highest and best use. In those instances where adequate market data or income information is not available, the cost approach may be the only reliable indicator of value.

Definition: The Cost Approach is that approach in appraisal analysis that is based on the proposition that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject property.

It is a set of procedures through which a value indication is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of, or replacement for, the existing improvement; deducting accrued depreciation and adding the estimated land value plus entrepreneurial profit.

In eminent domain appraisal, the "Cost Approach to Value" is considered valid in only two situations:

- 1) When the improvements are nearly new, and functional.
- 2) When the property has a "special purpose" or use, and is of a type seldom sold in the open market.

There are several methods of estimating the replacement or reproduction cost of improvements such as Calculator Cost Method, Segregated Cost Method, independent contractor cost estimate, and "The Square Foot or Cubic Foot Method." There are construction cost index services such as BOECKH, DOW, MARSHALL AND SWIFT, that may be used to assist the appraiser in estimating replacement or reproduction costs.

Employing an independent contractor to provide a reproduction or replacement cost estimate is useful for improvements that are unique or of special purpose utility. This decision should be discussed with NHDOT and then the cost estimate must be checked for accuracy.

The analysis must account for all physical and functional depreciation plus external obsolescence.

Economic Age-Life – The appraiser must adequately explain and justify estimates of effective age and anticipated economic life.

- D. Land value: The opinion of land value is to be developed from comparable sales or other methods as outlined in the Sales Comparison Approach to Value. Land value must be estimated on the basis of what would be the tract's highest and best use if unimproved and ready for development.
- E. Cost new estimate: The appraiser may arrive at a cost new estimate for each improvement on the property basing computations on the updated actual cost, cost of similar new construction, computerized cost services, published cost manuals, or contractor's estimates. The source and development of that data must be documented in a manner that allows the appraisal reviewer to confirm and analyze computations.
- F. Accrued Depreciation: Four methods of measuring accrued depreciation are acceptable.
 - 1) Breakdown -This method is to be applied using generally accepted methodology to produce estimates of physical deterioration, functional obsolescence and economic or external obsolescence.
 - 2) Market Analysis – The appraiser must indicate the following: development and documentation of land value from comparable sales and deduction from the total sale price to ascertain the contribution value of the improvements; cost new estimates of the improvements on those comparable sales; comparison of contribution value and cost new to establish the percentage of accrued depreciation on the sale of improvements. To be valid, the comparables should be relatively similar to the subject in age, construction, function and size.
 - 3) Commercial Cost Service -If the cost new estimate is developed by such a service, the appraiser may also use that system's estimate of depreciation,

furnishing a copy of the computation or computer output as a part of the appraisal report. The appraiser should ascertain whether the economic obsolescence, as included in the system, is relevant to the community.

- 4) Economic Age-Life – The appraiser must adequately explain and justify estimates of effective age and anticipated economic life.

Value Indication

The final value indication by the cost approach represents the total of the market value of land plus the depreciated cost of all improvements. This must be clearly stated at the conclusion of the approach.

- **Income Capitalization Approach and Analysis, if Applicable**

In using the income approach the appraiser is concerned with the present worth of the future potential benefits of a property. This is generally measured by the net income that a fully informed person is warranted in assuming the property will produce during its remaining useful life as it may be affected by neighborhood influences. It is essential that net income or rent be distinguished from business income or profit. After comparison with investments of similar type and class, this net income is capitalized into a value estimate.

Developing or identifying the capitalization rate is one of the most important steps in the income approach. A variation of only one half of one per cent can make a difference of many thousands of dollars in the capitalized value of the income. The work to be done assembling and processing income data is of four kinds. They are:

- a) Obtaining the rent schedules (Rent Rolls) and the percentage of occupancy for the subject property and for comparable properties for the current year and for at least 2-3 years of operating history. This information provides gross rental data as well as operating expenses and the trend in rentals and occupancy for the subject property. The appraiser should become familiar with analyzing leases.
- b) Obtaining operating expense data such as real estate taxes, property insurance, and common area maintenance costs being paid by the subject property owner and by comparable properties. Often, the owner (lessor) is reimbursed for taxes, insurance, and common area maintenance (CAM) charges by the tenants (triple net lease) and other times, the tenant (lessee) pays just utilities (modified gross). With full gross leases, the owner pays all operating expenses. Establishing the trends in these expenses is helpful in projecting future income streams using yield capitalization.
- c) Projecting a periodic or stabilized vacancy and credit loss factor. This is usually achieved by researching the rental comparables to be used and obtaining occupancy levels for the comparable multi-tenanted buildings. Deducting a

vacancy and credit loss factor results in an effective gross income (EGI). From this, operating expenses are deducted to arrive at the net operating income.

- d) Selecting the appropriate capitalization, or discount rate and the applicable technique and method for processing the estimated net income(s) is accomplished using the Band of Investment technique and/or other methods of building up rates using mortgage and equity components. Extracting capitalization rates from comparable sale properties is often the most reliable indicator of the rate to apply.

The income approach is another avenue by which the appraiser estimates value. It has its greatest usefulness in the valuation of investor-owned income-producing property, such as apartments, motels, and commercial buildings, since the average investor in such property purchases it in order to receive future benefits (income). The person who invests money in an apartment building, for example, expects a reasonable return on and of the investment.

In the case of a Before and After valuation, and if the Cost Approach has not been developed, a Land Value as vacant, for its highest and best use, should be developed using the Direct Sales Comparison Approach.

The appraiser shall collect, inspect, verify, analyze, and reconcile such comparable income data as are available to indicate an appropriate estimate of the gross income of the property being appraised.

The appraiser shall collect, verify, analyze, and reconcile such data on comparable operating expenses as are available to support an estimate of all operating expenses pertinent to the property being appraised.

The appraiser shall collect, verify, analyze, and reconcile data available to support an appropriate capitalization rate or rates to be applied to the estimated net operating income.

The method, process, and technique of capitalization shall be appropriate to the type and characteristics of the property being appraised.

A final value indicated by the Income Capitalization Approach shall be reached and clearly stated at the conclusion of the approach.

- **Sales Comparison Approach and Analysis, if Applicable**

Definition: The Sales Comparison Approach to Value is a direct sales comparison and analysis. The Sales Comparison Approach in appraisal analysis is based on the proposition that an informed purchaser would pay no more for a property than the cost of acquiring an alternate property with a similar utility. This is the approach to value normally relied upon in eminent domain appraisal valuations. In the case of a Before

and After valuation, and if the Cost Approach has not been developed, a Land Value as vacant, for its highest and best use, developed using the Direct Sales Comparison Approach is to be included.

The sales comparison approach is essential in almost every appraisal of real property. It is the method best understood by the public, including courts and juries. The comparable sales approach consists of a comparison of the property being appraised with other similar properties that have sold recently. Seldom are two properties identical and adjustments must be made for any differences that would be considered by potential purchasers. In making these adjustments, the appraiser relies on the elements of comparison which include:

- Property Rights Conveyed – fee simple, leased fee, or leasehold position.
- Conditions of the Sale unusual conditions influencing the price.
- Financing – Favorable financing can influence prices.
- Changes in the Marketplace – Are property values stable, increasing, or decreasing.
- Location – traffic exposure, access, neighborhood land uses, zoning, availability of utilities, other amenities, etc.
- Physical Differences – size differences, topography, soils, wetlands, condition of improvements, functional utility of improvements, etc.

The adjustments normally are made in the order listed above. In addition, each appraisal should include:

- 1) An identifying number for each sale used and analyzed, providing a recording reference, date of sale, revenue stamps, confirmation source and photograph or plan if available.
- 2) Location of the comparable sales used on a map.
- 3) Explanation of each sale and adjustments based on a comparative analysis using paired sales analysis where possible (quantitative) or a qualitative analysis when the data sample is limited. The adjustments should be made using percentages, dollars, or simple pluses and minuses.

In order to use this information the appraiser must make every reasonable effort to verify the sales data. The appraiser must have complete knowledge of all the facets of the comparable property, and must then use skill to insure the interpretation and adjustment of the information is reasonable and can be logically supported.

The appraiser shall collect, inspect, verify, analyze, and reconcile comparable sales information available to produce a value conclusion. Comparable sales data must be contained in the appraisal report.

The appraiser must analyze available market information and explain how that data related to the subject property. The means for expressing that analysis covers a broad spectrum of qualified skill depending on the property and market being analyzed.

The appraiser needs to present available market information and supply comparative adjustments, using quantitative and/or qualitative techniques, between that information and the subject property to arrive at a final indication of market value. Quantitative techniques include paired data analysis, statistical analysis, graphic analysis, trend analysis, cost related analysis and secondary analysis. Qualitative techniques include relative comparison analysis, ranking analysis, and personal interviews.

In any case, the appraiser must clearly and accurately present these analyses, opinions, and conclusions in sufficient depth and detail to convince a reader of the report that they are appropriate and reasonable.

- **Reconciliation & Final Opinion of Value**

The appraiser must reconcile the value indications previously reached from the approaches to value to arrive at a final opinion of value. Appraisers are to reconcile facts, trends, and observations developed in their analyses and review the conclusions, validity and reliability of those conclusions. Relative significance, applicability, and defensibility of each indication of value is weighed and analyzed, placing greatest reliance on those which are most authoritative in indicating the value of the property or rights under appraisal.

The Final Value Opinion is to be the highest value that a typical informed rational purchaser would pay for the subject property if available for sale on the open market as of the date of appraisal, given the data developed in the analysis.

- **Signatures by Responsible Appraisers**

All appraisers contributing significantly to the valuation process must sign the report and all the required certifications.

Fixture and equipment appraisers who have provided appraisals of personal property under their own signature are required to sign and include certificates only as to those conclusions, even though they may be incorporated into the larger report by the real property appraiser.

- **Supportive Material**

The appraisal should include any supportive material that the appraiser believes would assist in explaining or justifying the observations and conclusions. This material may consist of: maps, charts, plans, photographs, cost estimates, sketches, hazardous material inspection reports, traffic count charts, community ordinances, sale contracts, offers to purchase, leases, etc.

- **Tenant Owned Improvements**

Tenant owned structures and fixtures shall be noted. If both landlord and tenant have signed an agreement denoting the tenant owned fixtures and equipment, the appraiser shall develop an appraisal of the tenant's interest separate from the owner. If the owner and/or tenant do not agree on ownership, the appraiser should develop a division of interests and report it separately in the appraisal report.

A suggested format for the "Before and After" self-contained appraisal report is shown on the following pages.

TITLE PAGE

Project
State Project #
Parcel #
Owner
Address
PCS #
ID #
Name of Client
Appraiser's Name
Effective Date of Value

LETTER OF TRANSMITTAL

Date of Letter
Identification of Property
Property Rights Appraised
Estimate of Damages
Effective Date of Value
Signature

PART I - INTRODUCTION

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APPRAISER'S CERTIFICATION

Facts True and Correct
No Interest in Property
Conforms to USPAP
Property Inspection

**Professional Assistance
Limited Only by Assumptions
No Contingent Fee
Conforms to UASFLA
Offered Owner Opportunity to Accompany
Property Excluded
No Consideration of Non-Compensable Items
Before Value
After Value
Damages
Effective Date of Value
Signature
Date**

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

**Identification of Property
Date and With Whom Property Inspected
Extent of Inspection
Highest and Best Use Before and After
Value Conclusions Before and After
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FRONT PHOTO OF SUBJECT

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Definition of Property Rights Appraised
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Describe Unusual Problems
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PHOTOGRAPHS OF THE LARGER PARCEL

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Present Usage

Size

Shape

Frontage

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Topography

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Flood Plain Issues

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As Improved

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Analysis
Grid
Conclusion

COST APPROACH

Reproduction / Replacement Cost
Source Identified / Forms Used
Depreciation

SALES COMPARISON APPROACH

Description
Discuss All Recent Sales of Subject
Analysis
Grid
Conclusion

INCOME CAPITALIZATION APPROACH

Gross Income Estimate
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Vacancy / Expenses / Net Income
Supported by Comparable Info
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Market Supported

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DETAIL OF COMPARABLE DATA

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Legal Instructions

Specialist Reports

Subject Leases

4.27 SPECIAL BENEFITS

Special benefits to the remainders of properties acquired are those which enhance the value of the remaining property or its highest and best use after the taking, and which the property owner receives that are peculiar to this property. As defined by AASHTO, “*special benefits are the advantage accruing from given highway improvement to a specific property and not to others generally. In contrast, general benefits are those that result to an area in general following the opening or improvement of a highway*”.

In New Hampshire special benefits shall offset damages to the remainders, as well as be used to offset the value of the property acquired.

While owners are entitled to just compensation for property taken for highway purposes, unless benefits are taken into consideration the rights of the taxpaying public will not be protected. Appraisers must, therefore, be thoroughly familiar with the various benefits that may affect a remainder property after a partial taking and under what conditions they may offset damages. Appraisers who may be unfamiliar with the determination and application of special benefits should consult with Legal Counsel or the client.

4.28 NON-COMPENSABLE ITEMS

The following items, non-compensable under federal law, shall be eliminated from consideration in an after value appraisal:

- 1) Loss of profits or business.
- 2) An option does not constitute an interest in land requiring compensation where it has been exercised.
- 3) Circuity of travel by reason of the blocking of an existing public road, where it is damage suffered in common with the public generally.
- 4) The placing of an island or medians in the center of a street or thoroughfare does not entitle the owner to damages inasmuch as this is an exercise of police power even though right of way is acquired at the same time.
- 5) Loss of access beyond reasonable access. The only access right a landowner has is the right of reasonable access to the highway system.
- 6) In estimating damages to property taken containing sand, gravel, or other types of materials the land must be valued by considering the potentialities that it possesses and minerals it contains as land and cannot be valued on a yards times unit price basis applied to the quantity of materials available.
- 7) Damages arising by a reasonable and lawful exercise of police power to protect the public.
- 8) Damages during the period of construction such as noise, dust, inability of customers to conveniently get to a business property, or the closing of a street and detouring of traffic.
- 9) Damages by reason of the loss of anticipated profits that the owner(s) claims could have been made had they been allowed to continue the use of their property.
- 10) Loss of parking within the right of way. The loss of parking spaces on the right of way so long as there remains reasonable access to the property cannot be considered in determining damages.

4.29 REALTY AND PERSONALTY DETERMINATION

The classification of equipment and fixtures as realty or personalty is necessary so that the appraiser can list and evaluate each piece of equipment included as realty. Stated in the simplest terms but requiring frequent interpretation, equipment should be considered as part of the realty by reason of its annexation to real property and/or adaptation to continuing use in connection with the realty. Equipment not falling under this category is considered personalty.

In appraising commercial, industrial, and special use properties it is essential that the determinations of realty and personalty be made at an early date so the appraiser may list and evaluate all realty items. In order to accomplish this early determination the appraiser, and Relocation Specialist should meet with the owner or the owner's designated representative to go over the entire property and catalogue all pieces of equipment and fixtures. The appraisal

shall include all realty and the offer to the owner shall specify all equipment covered by the offer.

4.30 SIGNS

On-premise signs are appraised as real estate except for devices that are portable.

Typically, advertising devices (different from on-premise signs), owned by outdoor advertising companies, including painted bulletins, poster panels, painted surfaces, etc., should be valued based on the cost valuation of the sign. Signs owned by outdoor advertising companies constructed on leased land are considered personal property

The New Hampshire Supreme Court has held that the “cost valuation of the signs coupled with the income value of the ground leases awarded all the value that could reasonably be expected to accrue to the (owner)” and “that value is limited here by the brevity of the leaseholds and their uncertain renewal prospects.” *State v. 3M Nat’l Advertising Co.*, 653 A.2d 1092 (N.H. 1995).

The appraiser should be aware that the method of sign valuation is subject to legal interpretation and therefore, consultation with the attorney general’s office is recommended before proceeding with the assignment. Once guidance has been received, relevant jurisdictional and legal issues should be summarized in the Scope of Work.

4.31 APPRAISAL OF REAL ESTATE NOT SUBJECT TO EMINENT DOMAIN

These kinds of appraisal assignments are generally used when NHDOT disposes of its excess land, leases excess land or, when an owner requests that an access be modified on a limited access highway. Appraisals for other departments such as the Fish & Game, Resources & Economic Development or Environmental Services may also fall under these guidelines. Appraisals not subject to eminent domain will conform to summary reports that conform to the Universal Standards of Professional Appraisal Practice (USPAP).

4.32 APPRAISAL OF STATE OWNED PROPERTY

Real estate deemed surplus by NHDOT are typically appraised by NHDOT staff appraisers. Remnant parcels that, because of size shape or access, do not have an independent value will be appraised as to their contributory value to abutting parcels. Surplus property with a highest and best use as an independent parcel will be appraised as to their market value. Surplus property appraisals will typically be summary reports that conform to the Universal Standards of Professional Appraisal Practice (USPAP). Other types of appraisal requests may include easement value or lease value.

4.33 APPRAISAL OF ACCESS MODIFICATIONS

Enhancement value caused by changes in access is estimated by appraising the property with the current access (Before Appraisal). A second appraisal is done with the new access (After Appraisal). The difference between the Before and After appraisal, if any, is what the property owner should pay NHDOT for the access modification.

4.34 APPRAISAL OF VISIBILITY MODIFICATIONS

Property owners may request the right to change the visibility of highway traffic to their property. Typically this occurs when an earth berm obstructs the view of traffic to a commercial property. If the request is granted by NHDOT, the enhancement value is estimated by appraising the property with the current visibility (Before Appraisal). A second appraisal is done with enhanced visibility (After Appraisal). The difference between the Before and After appraisals, if any, is what the property owner would pay NHDOT for the visibility modification. Additionally, if the earth berm contains sand and or gravel deposits that have monetary value the appraiser would estimate the "in place" value of the sand and or gravel deposits and the property owner would pay NHDOT for this estimated value.

4.35 QUALIFICATIONS OF REVIEW APPRAISERS

Appraisers are assigned to review appraisals by the Chief Appraiser. Review appraisers are usually selected from the staff appraisers of the Right-of-Way Division on the basis of observed performance. The Chief Appraiser must depend upon the Reviewer for approving values that adequately compensate the owner and at the same time protect the taxpayers' interest.

The reviewer should have the following desirable qualifications:

The appraiser must be a thoroughly qualified appraiser with formal appraisal training, extensive appraisal experience, and preferably, court experience. Assignments should be made primarily in the areas of the reviewer's broadest experience. The demands of working cooperatively and productively with both staff and fee appraisers require the Reviewer to be professionally well qualified. Criticisms, questions, suggestions, and corrections have greater validity and are more readily acceptable to the appraiser when made by a professional equal.

Other desirable experience includes buying, selling, and management of property; college training in business administration, law, or engineering, or continuing education in the real estate field; and as a government employee at management level, training in public administration.

The Reviewer is in a position of great responsibility, and public trust. A person of judgment, tact, and integrity must fill it.

The qualifications of a Reviewer must be, at a minimum, equal to those of an Appraiser III. In those instances when a Consultant Review Appraiser is used, the reviewers must have previously pre-qualified themselves.

4.36 SELECTION OF CONSULTANT REVIEW APPRAISERS, CONTRACTS AND FEE

When an appraisal is advanced to the "review" stage, a determination is made by the Chief Appraiser, whether to assign it to a staff member or retain the services of a Consultant. This determination is based on the staff's workload, complexity of the appraisal problem, or when an outside opinion is desirable or necessary.

In those instances requiring the services of a Consultant, either an estimate of the consulting fee is made by the Chief Appraiser or a fee proposal is solicited from the consultant. The factors considered in estimating the fee are:

- 2) Number and type of appraisals to be reviewed.
- 3) Type of acquisition from property appraised.
- 4) Total taking
 1. Damage to remainder of property
 2. Uneconomic remainders
 3. Strip takings
- 5) Leasehold Interests
- 6) Type of improvements and amount of land being acquired
- 7) Time being allowed consultant to complete assignment
- 8) Location of assignment
- 9) Due compensation is allocated consistently and fairly throughout the project from parcel to parcel based on impacts

Along with the "fee estimate," a determination is made of which Consultants are best suited for the assignment. Their availability for assignment is also confirmed.

Consultant names are placed on a roster of "qualified review appraisers" by the Chief Appraiser based on their past record of performing satisfactory appraisal work for the Department, and/or by demonstrating proficiency and ability conducting appraisal reviews for other entities with similar appraisal review requirements.

4.37 OBJECTIVES OF REVIEW

The total appraisal process is not completed until there has been an adequate review of the appraisals and a determination made as to whether or not the appraisals represent fair market value for the property under consideration and a reasonable estimate of just compensation due the property owner has been made. From the facts and conclusions found in the various appraisals and from the appraiser's own knowledge and investigation, the Review Appraiser must be able to make logical and sound decisions as to that which represents fair market value for the property and reasonable and just compensation due the property owner.

The Reviewer shall examine the appraisal reports to determine that they:

- a. Are complete in accordance with 49 CFR 24.103 (1/04/2005), the Uniform Act, and

the applicable Standard Rules of USPAP, and the Department's appraisal specifications.

- b. Follow accepted appraisal principles and techniques in the valuation of real property in accordance with existing New Hampshire law and the Uniform Standards of Professional Appraisal Practice Standard Rule 3.
- c. Contain or make reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimates of value and/or damages contained therein.
- d. Include consideration of compensable items, damages and benefits, and do not include compensation for items noncompensable under New Hampshire law.
- e. Contain an identification or listing of the buildings, structures and other improvements on the land as well as the fixtures which the appraiser considered to be a part of the real property to be acquired.
- f. Contain the estimate of damages for or resulting from the acquisition, and where appropriate, in the case of a partial acquisition, either in the report or in a separate statement, a reasonable allocation of the estimate of damages for the real property acquired and for damages to remaining real property.

If, after analyzing the appraisals and making any necessary field investigations, including a visit to the subject property and comparables, the reviewer decides that the appraisal does not completely meet the requirements, then the reviewer should prepare a memorandum setting forth the deficiencies and recommend a course of action, which could consist of any of the following:

- 1) Arrange through the Chief Appraiser a conference with the appraiser if the reviewer deems it appropriate to discuss deficiencies.
- 2) Request and obtain, from the appraiser through the Chief Appraiser, corrections or revisions of appraisal reports which do not substantially meet the requirements. These shall be documented and retained in the parcel file.
- 3) Request that additional appraisals be prepared

4.38 PRELIMINARY OFFICE CHECK OF APPRAISALS

Each appraisal shall be "desk reviewed", by the reviewer, before making a field inspection. The Reviewer shall examine all appraisals for errors in areas, names, basic assumptions, affidavits of the appraiser for completeness, sketches and plats, photos, etc. All computations as to square feet or acres of land, square feet or cubic feet of improvements, adjustments of comparable sales, income and cost approaches should be checked.

The Reviewer may supplement an appraisal report with corrections of minor syntax and mathematical errors where such errors do not affect the final value conclusion. The Reviewer will initial and date all corrections.

4.39 REVIEW OF MULTIPLE APPRAISALS

All appraisals to be made for an individual parcel shall be made available for review before market value is established. When two appraisals are made, and are being desk reviewed, special attention should be paid to whether there is a wide divergence in the two estimates of damages. If wide divergence is noted, the Chief Appraiser should decide whether or not a third appraisal is necessary. Early arrangements for a third appraisal are necessary to avoid undue delay in completing right of way acquisition.

4.40 FIELD INSPECTION OF APPRAISED PROPERTIES BY REVIEWER

Field reviews are an essential part of the review process, and these should include an examination of the entire project in the field. The Reviewer should first orient himself/herself and analyzes the general neighborhood data, the comparables listed in the appraisal reports and others the reviewer has found through other sources, and the appraiser's reasoning used to arrive at his/her estimate of value.

The reviewer should inspect the subject property. The inspection should include the interior of the improvements if the building is being taken or if the taking will diminish the utility of the interior of the building. It is desirable that such inspection of improvements be made in the presence of the owner or with the owner's knowledge when an interior inspection is made. The date of inspection should be noted and recorded, together with the names of parties present or advised.

The reviewer should answer any questions the owner might have concerning procedure. The reviewer should not discuss value, since this is the function of the right of way agent who will subsequently contact the owner. A systematic, efficient, and complete inspection of the property may help assure the owner that full and individual consideration is being given.

The reviewer while inspecting the property may ask the property owner to point out any special items of construction or value that they feel should not be overlooked. This may help assure the owners that full consideration has been given to all items that they feel are important. In viewing the exterior of the property, the reviewer should note the trees, shrubs, and other on-site improvements.

4.41 FIELD INSPECTION OF COMPARABLES BY REVIEWER

The reviewer should personally field check and verify comparable sales. Each comparable sale should be personally inspected. If other sales data is available to the reviewer that is pertinent to the subject appraisal, the reviewer should also sift and compare it with the subject to the extent deemed necessary. The reviewer may wish to verify the price, area, terms, and condition of the sale of any comparable property with the seller, buyer, or broker or other reliable source.

4.42 REASONABLENESS OF HIGHEST AND BEST USE, BEFORE AND AFTER BY REVIEWER

In all cases, the reviewer should inspect the present use of the property and determine its zoning, if any. The reviewer should analyze the highest and best use, as shown in the appraisal both before and after the taking, and be satisfied that the conclusions of the appraiser are sound and properly supported.

4.43 VERIFICATION OF COST AND INCOME DATA BY REVIEWER

When applicable the Review Appraiser shall make additional checks if the cost or income approaches are used in evaluating the property. The reviewer should ascertain the reliability of the cost data used in the appraisal against current construction costs in the market or on the subject property. Checking with local builders or builders' supply firms provides data concerning current cost of comparable types of building materials. The reviewer should verify that the cost data used in the appraisal is for similar quality of structural components.

If the income approach is used, the reviewer, when applicable, should verify the economic rent on similar properties in the area and verify the interest rate of return in the vicinity for income properties of the subject type. The reviewer may deem it advisable to attempt to find typical operating statements for this type of property in the area. In the land residual technique, the reviewer must be assured that careful consideration was given to the improvement cost, age, income, and highest and best use. In the building residual technique, land value should have been well established in the market. If gross monthly multiples were used in the income approach, the reviewer should check their reliability and effective range, as well as the rental sales used in computing these multiples.

4.44 PROPER CONSIDERATION OF BENEFITS AND DAMAGES BY REVIEWER

In the case of partial takings, the reviewer should make sure that the appraiser has given proper consideration to the measure of damages to remainders and to special benefits, if any. The reviewer should be assured that no damages listed as noncompensable have been included in the difference between before and after values. All damage items that are included must carry with them a clear-cut expression of the logic employed in making the damage determination.

By far, the greatest number of appraisal and appraisal review problems arise when partial takings are involved. Partial takings may be subdivided into four groups for discussion purposes as the required treatment varies with the complexity of the problem.

- 1) Strip takings on widening of existing rural highways where the value of the remaining land far outweighs the value of land taken and there are minimal damages, if any, to remainders. The reviewer, however, should be assured that items of damages have not been overlooked by checking the plans to note changes in grade, changes in drainage, alterations or modifications of driveways, application of access control, and provisions for fencing.

- 2) Strip takings in urban areas for widening existing streets. This type of taking often results in problems of proximity damage, "cost to cure" items, landscaping damage, and nonconforming use.
 - a. DAMAGE-In the application of proximity damage to residences (or other improvements), it is highly important that the reviewer be satisfied that the damages are supported from local market data or local market reactions. Where severance damage studies are available in this type of taking the reviewer should give them consideration.
 - b. NONCONFORMING USE-Wherever the remainder cannot be used in its remainder condition because of zoning or building regulations, the reviewer should obtain supporting documentation to the effect.
 - c. Strip takings on widening jobs where improvements are taken. Review should make the same check as under a, and determine the adequacy of treatment of damages to improvements and the need for before and after values for the entire property.
 - d. Partial takings of significant proportions leaving one or more remainders, with or without access.

This is the group in which the problems of greatest magnitude arise due to the many questionable areas of severance damages and benefits involved, real or speculative. In these situations the reviewer will need to be familiar with the highway construction plans in order to evaluate the effect of the proposed construction on the remainder of the property due to such things as changed drainage, accessibility to fields, availability of operational area, and similar matters in order to properly evaluate after values.

The reviewer must first assess the comparability of properties used to establish after values, as to similarity in areas such as separation due to roads, railroads, and streams and to other physical features.

- 3) In the analysis of the difference between before and after values some of the elements to be considered in the matter of compensable and noncompensable damages include the following:
 - a. Economic Size-Adjustments by the Appraiser for economic size should not be arbitrary or speculative but established by adequate market data where possible.
 - b. Time Adjustment-Time adjustment should be uniformly applied and, if possible, be established from market data in the area. The use of statewide average changes, if several land uses are involved, may be questionable and should only be used if local data is not available.

- c. **Circuitry of Travel and Additional Operating Cost Between Remainders.**
There has been much confusion in the interpretation and application of the term "Circuitry of Travel" in distinguishing between compensable and noncompensable damage items. The increased distances required to travel to local markets, schools, and social and cultural events result in costs or damages which are not compensable and should be eliminated if included in an appraisal.

When the taking leaves two or more remainders, the additional operating costs may be considered within the fair market value concept.

- 4) **Change in Grade and Access**
Severance damage due to change in grade, impairment of reasonable access, landlocking, etc., are appropriate for consideration generally, and the reviewer should assess whether the appraiser's conclusion was founded in the market.
- 5) **Special Benefits**
As the reviewer must be assured of the proper measure of compensable damages in the appraisal, the reviewer must also be alert to the possibility of special benefits accruing to the remainder property.

4.45 WAS TECHNIQUE OF ABSTRACTING PROPERLY APPLIED?

The reviewer should carefully check any appraising by abstraction. The technique of determining the amount of an unknown quantity when certain other quantities are known is referred to in appraising or mathematics as "abstraction". Obtaining a desired value by abstraction is a useful and accurate technique if used properly in the appraisal process. Its accuracy, however, is entirely dependent on the accuracy of the known quantities also used in the processes.

The reviewer should be certain that the appraiser is not utilizing "building or improvement contribution" as an equalizer to make sales conform to the abstracted land prices. Building or improvement contribution should be adequately supported in all sales considered as a necessary part of the abstraction technique.

There are a number of areas where the technique of abstraction is utilized in appraising, for example: in determining the amount of benefits or severance damages in the allocation function. Abstraction should only be used in the absence of good comparable sales and when other known quantities are properly supported.

4.46 WERE PROPER APPROACHES TO VALUE USED?

In addition to checking the overall adequacy of the appraisals, the reviewer should determine whether the proper approaches to value were used by the appraiser. An examination should be made to see that if all three approaches to value are not used that the appraiser has given an adequate explanation for the nonuse of an approach or approaches. For example, the cost

approach has very little validity as buildings grow older, except for special use properties, such as public buildings, churches, etc., where normally the cost approach is the only available guide to valuation.

4.47 SUFFICIENCY OF SUPPORT AND REASONING TO JUSTIFY CONCLUSION

After determining whether the approaches that have been used are proper, the reviewer should determine whether or not the market data in the appraisals actually fully supports and documents each of the appraiser's conclusions and findings.

It is necessary to determine whether proper mathematics were used in the application of numbers to the appraisal process and whether, wherever numerical values are used, they are supported and reasonable. Caution and judgment must be exercised because virtually any kind of value conclusion can be derived by manipulation of mathematics. The product is of doubtful validity, unless the mathematics are founded on accurate market data or reasonable inferences and based on sound appraisal theory and principles.

4.48 REQUESTS FOR ADDITIONAL DOCUMENTATION BY REVIEWER

If for any reason the Review Appraiser believes that the appraisal is obviously lacking in any important detail, the reviewer should request, through the Chief Appraiser, that the Appraiser make corrections or furnish such additional support and documentation as may be required.

This is the kind of situation where the utmost in tact is required. No one likes to be shown that they are in error, and relations with the appraiser may become strained through the lack of tact, resulting in unnecessary difficulty in resolving problem areas in the appraisal. Changes in the report itself shall be made only by the Appraiser who prepared the report by providing revised pages.

It is desirable that significant differences be reviewed with the appraiser in writing, possibly after a discussion or conference. All errors should be called to the appraiser's attention for if the appraiser should be used as an expert witness while unaware of even a minor error, the appraiser's effectiveness as an expert witness may be completely lost.

In the review of a Fee Appraiser's Report, the reviewer may criticize, question, or suggest, but, in the end, the opinion of value is the judgment of the appraiser and the appraiser is responsible for defending the opinion in court. The appraiser is hired for judgment, experience, and expertise and cannot be penalized for the honest exercise of these qualities so long as the conclusions fall within the scope of proper appraisal technique and available data. If the reviewer cannot agree with the finding of the appraiser after attempts at rehabilitation of the appraisal report have failed, the reviewer should fully set forth, document, and support all reasons for the difference, in which case it may be necessary to obtain another appraisal by contract, staff, or the reviewer. The Uniform Act, USPAP, Standard Rule 3 permits the reviewer to render his or her own opinion of value, a course of action that should rarely be used but may be necessitated by deadline or other similar issue.

The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as:

- **Recommended** accepted and approved as the basis for the establishment of the amount believed to be just compensation;
- **Accepted** meets all requirements, but not selected as recommended;
- **Not accepted** include reasons for not accepting this appraisal

The review appraiser will summarize the findings by completing the Review Appraiser's Summary and Review Appraisers Certificate of Inspection forms. The review appraiser will recommend an appraisal as the basis for the establishment of the amount believed to be just compensations and develop and report the amount believed to be just compensation. As an example, the necessary statements could be made:

"Based on the approved appraisal and my analysis, the compensation offer of [amount] as of [date] is hereby approved for purposes of determining the amount of just compensation."

The approved appraisal will then be forwarded to the Chief ROW Appraiser accompanied by the following completed forms: Review Appraiser's Summary, Review Appraisers Certificate of Inspection, and Approval Letter. The Chief ROW Appraiser will forward the approved appraisal and Approval Letter to ROW Engineer or ROW Bureau Administrator. If two appraisals were done on the same property the Finding of Fact form will also be forwarded to the Chief ROW Appraiser. Only the ROW Engineer or ROW Bureau Administrator has the authority to sign the Approval Letter authorizing just compensation.

4.49 RESOLVING APPRAISAL DIVERGENCIES BY REVIEWER

Two or more appraisals are frequently obtained for the same parcel for the purpose of confirming values involving large or complicated takings. A major review problem results when two equivalently professional appraisers arrive at important and seemingly irreconcilable differences of opinion of value.

The reviewer shall review both appraisals completely and minutely to discover the exact source of the difference. If it appears to be on a factual basis, both appraisers should be asked for a confirmation of the factual matter and reanalysis of any possible changes occasioned thereby.

Frequently, a difference in appraisals of apparently equal quality is a result of differing honest concepts of the property. This brings the greatest test of the reviewer's skill and judgment. The reviewer should review each basis of value and the analytical process used by each appraiser, keeping in mind the abilities and experience of each appraiser. The reviewer may call for further detail and analysis support from each appraiser. In the end, however, the decision for approval or rejection is the reviewer's responsibility. A Review Appraiser Summary form will be completed by the review appraisal describing the strengths and weaknesses of each appraisal

and which appraisal is approved and why. A Finding of Fact form will be completed by the review appraiser indicating which appraisal was approved.

4.50 ADMINISTRATIVE REVIEW

The Chief ROW Appraiser is greatly dependent on the reviewer for assurance that appraisals are technically adequate and in compliance with USPAP and the Department's ROW Manual as well as providing the Department with a supportable estimate of damages that represents just compensation.

For continued assurance of satisfactory performance by the reviewer and because of the necessity for great reliance on individual judgment, the effectiveness of the reviewer's work should be continually evaluated.

Product Quality Control is observed through success of acquisition, auditing acceptance, and cost effectiveness.

The work product is subject to field and office audit by a multitude of interested parties, the personnel of which may have little or no actual appraisal experience but have great concern for the effectiveness of the work products....(e.g., the division's administrators, Departmental personnel, legislative auditors, Federal Highway Administration auditors, legislative committees, public groups, General Accounting Office and so on.) As the Review Appraiser is responsible for assuring compliance with auditing requirements, the audit results are another method of administrative quality control.

4.51 FEDERAL PARTICIPATION

The Reviewers shall be thoroughly familiar with 49 CFR, Part 24, (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs) with particular attention to sections covering requirements for eligibility for Federal participation in right-of-way costs.

For purposes of documentation, the reviewer shall place in the file a signed and dated certification to the effect that:

The scope of the review has included, at a minimum, the following:

- 1) Field inspection of the subject and all sale/rental properties involved in this appraisal.
- 2) Review to ascertain that the report complies with all current applicable State and Federal specifications and laws.
- 3) Report review to ensure that the appraisal has been prepared in accordant with accepted appraisal principles and that it meets all aspects of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.
- 4) Review of report to ensure that it contains information to properly explain, substantiate,

- and document the descriptive/material and the estimates of value contained therein.
- 5) Review of report to ascertain that the report includes all compensable items but does not include compensation for non-compensable items.
 - 6) Request, obtain and review additional information, corrections and revisions to insure that all of the above is met.
 - 7) It is my understanding the value as approved is to be used in connection with a Federal Aid Highway Project. I certify that I have no direct, indirect, present, or contemplated future personal interest in such property, nor do I expect to benefit in any way from the acquisition of such property appraised. The undirected, independent conclusion I have reached is based on an appraisal and/or other factual data. It is my opinion that the conclusions do not reflect any compensable items under State Law that are not eligible for Federal Reimbursement.

The reviewer's conclusion of the overall reasonableness and support for the market value estimates shall also be documented in the parcel file to show the basis for this review conclusion.

4.52 COORDINATION WITH LEGAL COUNSEL BY REVIEWER

The Reviewer, being aware of the ultimate use of an appraisal in court, must be assured that the appraisal is of sufficient detail and contains conclusions that are defensible in court. Because of familiarity with the appraised property the reviewer is in a position to advise the attorney on appraised details.

The Review Appraiser can assist the Legal Counsel in advising on the selection of a contract appraiser in preparation for trial because of familiarity with the property based on the completed review.

The reviewer may be called upon to testify as an expert witness. As an expert witness the reviewer will work with the attorney in preparing testimony.

While the above emphasizes coordination in preparation for trial work, there are numerous occasions when the reviewer should consult members of the Legal Counsel regarding legal considerations that may have an important bearing on the appraisal and review process.

4.53 REVIEW APPRAISER ASSIST MUNICIPALITIES

When requested, the Review Appraiser should be prepared to assist in the quality control process involving appraisal and appraisal review by local governments in municipally managed projects.

4.54 APPRAISAL UPDATE

If new information is presented by the owner, or a material change in the character or condition of the property or the taking has occurred, or if a significant delay has occurred since the time of the appraisal of the property, the Department shall have the appraisal updated or obtain a

new appraisal. If it becomes necessary to have an appraisal updated, it is not necessary for the owner to accompany the appraiser in the re-inspection of the property.

4.55 APPRAISAL UPDATE FOR LITIGATION

If the property owner refuses the State's offer the condemnation process will begin and the case will be assigned to one of the attorneys at the attorney general's office. The attorney general's office will notify the appraiser and chief ROW appraiser that the appraisal should be updated as of the date of taking. The appraiser will typically have 60 days from receipt of the letter to complete the updated appraisal. If the original appraisal was in a "land value appraisal" (LVA) format the updated appraisal will be completed in a full before and after (B/A) appraisal format. A draft of the updated appraisal will be submitted to the assigned review appraiser for review. When the review process is completed the approved appraisal will be forwarded to the assigned attorney at the NH Attorney General's Office accompanied by the form entitled Approved Appraisal AG Update.

4.56 USPAP COMPLIANCE WHEN UPDATING APPRAISALS

USPAP requires disclosure of all valuation services an appraiser has provided for or on the subject property within the preceding 3 years to the client before accepting an appraisal assignment, and in the certification. Failing to disclose this in the certification is an ethics violation. Further, each service must be disclosed, (for example, "I have performed 5 appraisals and 3 appraisal reviews on the subject property within the past 3 years.") The particulars about prior services need not be disclosed, and confidentiality issues can prohibit an appraiser from performing an assignment altogether.

This applies to every appraisal assignment with a report date after December 31, 2009. The NHDOT review / approval process often generates multiple revisions of appraisals, particularly early in the process prior to approval of the report. Most pre-approval versions of an appraisal are considered (under USPAP) as a single appraisal assignment. Since accurate documentation of the number of assignments is required, it is important that appraisers and reviewing appraisers understand what USPAP classifies as a new appraisal assignment and what does not.

Any changes to the assignment elements results in a new assignment. This does not include changes to the "Scope of Work" which often changes over the life of an assignment.

A real property appraisal assignment becomes a new one when:

- 1) The client changes or intended users change,
- 2) The intended use changes,
- 3) The type or definition of value changes,
- 4) The effective date changes,

The nature of the appraisal problem changes, (such as changes to:

- a) Property location, physical, legal, and economic attributes
- b) The interest to be valued
- c) Personal property, trade fixtures, or intangible items included in the appraisal

- d) Easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, etc. (acquisitions, plans)
- e) The appraised fractional interests, physical segment, or partial holding
- f) Extraordinary assumptions
- g) Hypothetical conditions)

4.57 HAZARDOUS WASTE SITES

During early project development, the NHDOT Environmental Bureau will identify hazardous waste sites. Hazardous waste is an area of concern to highway contractors, as the potential liability of a hazardous waste site or sites within the project alignment can seriously affect proposed projects. If toxic/hazardous waste is present in the project alignment, it should be tested and mitigation costs estimated prior to NHDOT ROW Bureau receiving final plans. The Chief Appraiser assures that any positive testing and mitigation cost estimates are forwarded to the parcel appraisers. Contaminated subject properties are to be appraised “as is”. The valuation should take into consideration comparable sales with similar contamination, the availability of clean up funds, and mitigation costs.

In some instances the NHDOT Environmental Bureau may not have identified hazardous waste on a subject parcel. When the appraiser inspects the parcel they should report to the Chief Appraiser any suspected hazardous waste based on past use of the property and visual signs of contamination. The chief appraiser will inform the NHDOT Environmental Bureau of the suspected contamination. The Bureau will do an environmental assessment to determine mitigation cost if contamination is present. The mitigation cost should reflect what a property owner would be required to correct by NH Dept. of Environmental Services. This assessment will be provided to the appraiser.

4.58 THE WAIVER VALUATION PROCESS

The **Waiver Valuation** process estimates fair and just compensation for the property owner. This procedure can be used for *minor, uncomplicated acquisitions* where compensation to the property owner does not exceed **\$10,000**. This procedure cannot be used when either severance to the remainder or condemnation is anticipated.

Please note that simply because the compensation value is less than **\$10,000** it does not mean that a compensation estimate may be used rather than an appraisal.

Qualified staff or consultants may prepare compensation estimates. To be qualified to prepare compensation estimates the preparer must be generally knowledgeable of land values, particularly types similar to the property being acquired. Compensation estimates should be based on current land values in the market area and should be applied consistently to all parcels in a construction project.

The individual preparing the valuation may also negotiate the real property if the value is \$10,000.00 or less (per 49 CFR 24.102(n)(3)).

In order to determine whether or not an acquisition is "uncomplicated," the following questions should be answered:

- Is the acquisition over \$10,000?
- Is the acquisition anything more than a strip acquisition?
- Are buildings, wells, signs, etc. affected?
- Is the acquisition severing any buildings from remainder?
- Are trees, shrubs, or any other landscaping involved?
- Is the proposed right of way line closer to any building after the acquisition to require analysis of possible proximity damages?
- Is access to the property changed or limited?
- Is current highest and best use of property going to be changed as a result of the acquisition?
- Does a significant amount of the total compensation involve items other than land value?
- Is there reason to believe this parcel will proceed to Condemnation?
- Is more land than actually needed being acquired?
- Are there any other considerations that complicate the valuing of this parcel?

If one of these questions is answered "yes," the acquisition could still be considered "uncomplicated." Multiple "yes" answers would indicate that the acquisition couldn't be considered to be uncomplicated. A single "yes" answer would need to be further analyzed to decide whether the indicated situation causes the acquisition to become complicated and thus require the acquisition to be appraised.

This list of questions is not intended to be all-inclusive. The key to use of this method of determining compensation is that impacts of the acquisition are minimal or can be easily measured by their cost to cure.

APPRAISAL REVIEW FORMS

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RIGHT-OF-WAY**

REVIEW APPRAISER'S SUMMARY

**FROM:
TO:
OWNER**

**REVIEW DATE:
PROJECT:
PARCEL #:**

	#1	#2	#3
APPRAISER(S):			
BEFORE VALUE:	\$	\$	\$
AFTER VALUE:	\$	\$	\$
TOTAL DAMAGES:	\$	\$	\$
PART TAKEN:	\$	\$	\$
SEVERANCE:	\$	\$	\$

**EFFECTIV
E DATE**

REPORT DATE

TOTAL DAMAGES APPROVED \$

PRO-RATA ESTIMATE \$

REVIEWERS ANALYSIS:

I find the methodology and application acceptable. I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation.

Methodology used in this report is appropriate but the application somewhat weak. However, based upon the available market data the damage estimate appears reasonable I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation.

Although the methodology is only fair and the application somewhat weak, the available market data suggests that the damage conclusion is reasonable. I recommend, accept, and approve this appraisal as the basis for the establishment of the amount believed to be just compensation in spite of the obvious deficiencies.

I find the methodology acceptable but the application is poorly done. The above damage conclusion is not supported. I accept it as it meets all requirements, but do not recommend it as the basis for the establishment of the amount believed to be just compensation.

I do not accept this report because it is deficient with regard to both methodology and approach application, value conclusion is unsupported.

Before and After Same as Part Taken - No Severance

Inasmuch as there is no diminution in the value of the remainder the estimated contributory value of the part taken in this report coincides with the indicated damages resulting from a “before and after” analysis.

Before and After - With Severance

The estimated total damages reported above result from the correct application of a “Before and After” valuation methodology. The allocated value of the part taken represents a mathematically correct pro rata share of the “before” land value, the depreciated value of acquired site improvements, and a consideration of losses created by the imposition of easements, if any. Severance damage represents the residual difference between total damages and the allocated part taken.

Total Take - No Remainder

As this is a total acquisition the appraisal concerns itself only with the property as it is prior to the taking. Total Damages are equal to the property’s estimated Market Value on the date of appraisal.

Before and After - No Severance - No Difference in B & A Values

The appraiser has completed a before and after appraisal and concluded that there is no difference between the Before and After values. Therefore, damages are zero. While this, at first, may appear to be unusual, in reality it occurs quite often.

Small takings from vacant parcels, or improved parcels where the cost approach is the most applicable, may be measurable by way of a contributory land value analysis. However, these same small takings may not be directly measurable by way of income and market approaches.

If the taking results in no measurable change in income earning ability, as measured by rentals and expenses, or utility and desirability as measured by improved sales, then total damages are property concluded to be zero. There is no pecuniary loss if the property is worth as much after the taking as it was before. For this reason I have approved a nominal award of \$500.00 for use by the client, in accordance with NHDOT policy.

Department policy, per the Attorney General’s memorandum dated February 8, 1993, requires the appraiser to estimate the pro rata value of the part taken when a before and after appraisal indicates no damages. This pro rata calculation does not represent the market value of the part acquired and it cannot, therefore, be approved as damages. It is, however, recognized as being mathematically correct and I have approved this figure for use by the client in accordance with NHDOT policy.

Before and After - Severance with no Measurable Value of Part Taken

The appraiser has completed a before and after appraisal and concluded that even though the part taken, by itself, has no measurable contributory value, there is a diminution of value of the remainder.

While the part taken, and any site improvements acquired, may be allocated on a calculated pro rata basis, market data suggests that this would be unrealistic. The value of the after parcel, before consideration of severance, is essentially the same as the value of the before parcel. To reflect this situation a small nominal figure has been assigned to the part taken. The balance of the total damages has thus been allocated to severance.

USPAP REVIEW DISCLOSURES

The State of New Hampshire Department of Transportation (NHDOT) Right-Of-Way (ROW) Bureau is my client for this appraisal review, with the only intended users being its agents and officials. The intended use of this review report is to document and support my approval of the subject appraisal for use by the client. The purpose of the review was to evaluate the appraisal's compliance with client guidelines, Uniform Act, the Uniform Standards of Professional Appraisal Practice (USPAP), and appropriate portions of the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA).

For this review I have:

1. Field inspected the subject and all sale/rental properties involved in this appraisal.
2. Reviewed the report to ensure compliance with all current applicable state and federal specifications and laws.
3. Reviewed the report to ensure that the appraisal has been prepared in accordance with accepted appraisal principles and that it meets all aspects of the Uniform Act and the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.
4. Reviewed the report to ensure that it contains information to properly explain, substantiate, and document the descriptive material and the estimates of value contained therein.
5. Reviewed the report to ensure that the report includes all compensable items but does not include compensation for non-compensable items.
6. Request, obtain and review additional information, corrections and revisions to ensure that all of the above is met.
7. Prepared this report to communicate my findings.

REVIEW CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The facts and data reported by the reviewer and used in the review process are true and correct.
- The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.
- My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I personally inspected the subject property of the report under review.
- No one provided significant appraisal, appraisal review, or appraisal consulting assistance to me for this assignment.
- Based on the approved appraisal and my analysis, the compensation offer of [amount] as of [date] is hereby approved for purposes of determining the amount of just compensation.

Review Appraiser:

Date

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RIGHT OF WAY

REVIEW APPRAISER'S CERTIFICATE OF INSPECTION

I, _____, have inspected the following property on, _____: Project: _____

 It is my understanding the value as approved is to be used in connection with a Federal Aid Highway Project. I certify that I have no direct, indirect, present, or contemplated future personal interest in such property, nor do I expect to benefit in any way from the acquisition of such property appraised. The undirected, independent conclusion I have reached is based on an appraisal and/or other factual data. It is my opinion that the conclusions do not reflect any compensable items under State Law that are not eligible for Federal Reimbursement.

Parcel No.	Property Type	Improvement Taken	Remainder	Date Inspected	Sales Viewed	Remarks

 Review Appraiser

 Date

Revised 02/23/96

**NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION
BUREAU OF RIGHT-OF-WAY
APPRAISAL SECTION**

“FINDING OF FACT”

PROJECT:

OWNER:

PARCEL NO.

APPRAISER:		
DATE OF APPRAISAL:		
VALUE BEFORE TAKING:		
VALUE AFTER TAKING:		
DAMAGES:		
APPROVED:		
CONSIDERED:		
REJECTED:		

This is to certify that I have personally inspected the above property and reviewed the above mentioned appraisal report; that I have no present or contemplated interest in the property owner, real property or mortgagee; that I have given due consideration to the above mentioned appraisal reports and attached documents in determining the value of the real property damage and special benefits to the remainder, if any, to the extent allowed under New Hampshire law; and that in my opinion the fair market value of the real property is as follows:

Review Appraiser’s Determination of Market Value

BEFORE TAKING:

AFTER TAKING:

DAMAGES:

Review Appraiser

Date

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION
DEPARTMENT OF TRANSPORTATION - BUREAU OF RIGHT OF WAY - APPRAISAL
SECTION
APPROVAL LETTER**

FROM: _____

SUBJECT: _____

TO: _____

Based on the approved appraisal and my analysis, I hereby approve the following for purposes of determining the amount of just compensation.:

Before Value _____

After Value _____

Value of Part Acquired _____

Severance Damage _____

Damages _____

Pro-Rata Estimate _____

Appraiser _____

Review Appraiser _____

Effective Date of Appraisal _____

Building Taken _____

Appraisals Considered _____

Accepted and Approved as Just Compensation _____

cc: Appraisal File
Circulated Copy

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

**DEPARTMENT OF TRANSPORTATION - BUREAU OF RIGHT OF WAY - APPRAISAL
SECTION
APPROVAL LETTER AG UPDATE**

FROM:

SUBJECT:

TO:

The original appraisal on the above parcel has been updated by appraiser _____, and this update has been reviewed and the following approved: (This supersedes the original approval of a report of _____.)

Before Value	_____
After Value	_____
Value of Part Acquired	_____
Severance Damage	_____
Damages	_____
Pro-Rata Estimate	_____
Appraiser	_____
Review Appraiser	_____
Effective Date of Appraisal	_____
Building Taken	_____
# Appraisals Considered	_____

cc: Appraisal File



CHAPTER 5
NEGOTIATIONS

5.01 GENERAL

A. PURPOSE

The purpose of this chapter is to outline the process to be followed in compliance with Federal and State laws and applicable regulations for the acquisition of real property through negotiations.

B. ORGANIZATION

The Agent Section is headed by the Chief Right-of-Way Agent who works under the administrative direction of the Right-of-Way Administrator and the Right-of-Way Engineer.

The section consists of Right-of-Way Agents with secretarial support.

All activities are centralized in the John O. Morton State Office Building in Concord.

On non-limited access projects, the Right-of-Way Administrator or the Right-of-Way Engineer forwards an approved petition and cover letter recommending a Layout Commission and proposed budget to the Governor and Council, over the Commissioner's signature. The Governor and Council then appoint a Layout Commission to hold the design hearing. A Right-of-Way Agent acts as clerk of the Commission and coordinates the acquisition and relocation processes.

Public hearings for projects that involve the limitation of access are conducted by a Special Committee from the Executive Council with the Layout Commission to serve as alternate Special Committee Members.

5.02 AGENTS DUTIES

A. DUTIES OF THE CHIEF RIGHT-OF-WAY AGENT

The Chief Right-of-Way Agent is responsible for supervisory work in directing the activities of the staff of Right-of-Way Agents, including the assignment of agents to be clerk of commissions, recommendation of commission members with assistance of the Hearing Coordinator, and the development and application of negotiation and relocation methods. The Chief Right of Way Agent also over-see the planning, progress closing activities, record keeping, documentation and

records all negotiations and property rights acquired. They assign and review work on all projects, including the relocation process, and enlists the assistance of Agent Supervisor, as necessary. The Chief also performs negotiations and relocation necessary in difficult and controversial acquisitions and does related work as required.

B. DUTIES OF THE RIGHT-OF-WAY AGENT

The Agent is the principal representative of the NHDOT in the negotiations for rights-of-way.

The Agent performs highly responsible technical work as the Clerk of the Commission in preparing and securing deeds, easements and permits necessary for procuring right-of-way in urban and rural areas by direct negotiations or by condemnation procedures, and does related work as required.

The Agent acts as Clerk of the Layout Commission and is responsible for attending the public hearing, processing all award claims, maintaining all records in the Right of Way Management System (ROWMS), scheduling appointments, creating record plans, and other related administrative details. On certain State projects, with minimal impacts, there is no public hearing, therefore no Layout Commission, and the Agent may act as the Department's sole representative.

In addition to the above, the Agent is responsible for performing the following functions:

- Be fully informed as to exact location of, and all impacts to property affected by the project. It is the responsibility of the ROW Engineer, Chief ROW Appraiser, Chief ROW Agent and Chief of Land Titles, as well as the assigned Agent, to review the extent of impacts together when preliminary plans are received.
- Upon receipt of the nominal compensation values, Land Value Appraisal (LVA) or Before and After Appraisal, the Agent prepares property owner packets to include but not limited to the following items:
 - Copy of the Right-of-Way plan sheet with owner's property, colored indicating the property lines, acquisition areas/areas and easements along with cross sections.
 - Copy of the Approved Appraisal.
 - A completed Offer-Agreement (written Offer of Estimate of Just Compensation).
 - Reimbursement of Current Year Taxes.

- Request for Taxpayer Identification Number and Certification W-9.
 - A copy of the brochure, “Your Land and New Hampshire’s Highways” and/or “Public Highways and Your Property.”
 - Agent’s business card.
 - Self addressed stamped envelope.
- Describe the extent of fee taking and/or any easements;
 - Be aware of any improvements or portions of improvements in the proposed right-of-way;
 - Describe, and where requested, make actual measurements from the right-of-way, easement lines, sidewalk area, curb line and edge of traveled pavement to the nearest corner of any improvement subject to possible damages as a result of the taking;
 - Point out and explain fully any drainage, slope or other easement provisions;
 - Point out existing property pins and explain the procedures for replacing them;
 - Indicate any areas subject to access control;
 - Indicate and explain the approximate height and depth of cuts and fills, utilizing project cross sections;
 - Explain the meaning of easements;
 - Explain driveway and/or other access provisions and the nature of any damages proposed to the owner’s entrances;
 - Explain any differences between the existing road and any changes proposed thereto, particularly regarding changes in the grade in front of the property or near any buildings, construction of guardrails, shoulders, curbs or other facilities, etc.;
 - Explain condemnation process.
 - Dates when the job will be started and finished;
 - Inform the Chief ROW Agent of progress on each project, as appropriate, and during scheduled Monthly Agent Status Meetings with ROW Administrator, ROW Engineer, ROW Agent Supervisor and Chief ROW Agent.

- Keep records as outlined in Section 5.04.

The Agent's source of information must include discussions with the design engineers, the appraisers, both staff and independent, as well as studies of their written reports and plans.

The Agent should review the actual site, walking the area, if feasible, to become familiar with the project and its impacts. The more the Agent knows of the project and the reaction of concerned property owners involved, as voiced at the hearings, the better the Agent will be able to negotiate for the purchase of the land rights.

Every reasonable effort will be made to contact each owner or the owners' designated representative, by phone, letter, or personal visit at a convenient time, date, and location.

During discussions with a property owner, the Agent will provide an overview of the project, an accurate and comprehensive explanation of the plans, sections, profiles, aerial photos, appraisal process, pro-rating of taxes and incidental expenses (if applicable), approval offers, a breakdown of the total damages if applicable, retention and/or replacement of improvements, legal rights, including rights to appeal, and provide the owner with a copy of the Department's brochures which describe the land acquisition and relocation processes and the State's and the owner's obligations.

When feasible, the Commission will inspect the acquisition with the owner and provide any service, which will help the owner better understand how the property is being affected. The Agent will obtain the answers to all questions as a necessary objective to reaching agreement with the owner. The Agent should be in a position to explain any relocation payments to which the owner may be entitled, as a result of being displaced from his/her home or business. See Chapter 6 for a detailed explanation of the Relocation process.

C. CONDUCT OF THE AGENT

While negotiating with property owners a number of guidelines should be followed:

- The Agent shall always keep in mind that he/she represents the public in an agency capacity with all the legal responsibility that is associated with that relationship. The owner with whom he/she is negotiating is part of the public.
- In the initial meeting with the owner, the Agent's first impression on the owner is important. A neat, conservative appearance and a friendly manner will go a long way in making that impression a good one.
- The Agent will call to make an appointment to discuss issues concerning the acquisition. Unannounced visits should be avoided. If the agent is unable to make contact with the property owner, the agent may make an unannounced, at his/his discretion.

- The Agent shall exercise care at all times to completely and honestly explain the process and the property owner's rights, especially of those who may be unfamiliar and inexperienced in real estate matters. Per NH RSA 498-A: 4 (I), the agent shall include a disclosure which states that the agent does not represent the rights of the property owner(s) and they may want to obtain independent advice or unbiased counsel.
- High-pressure sales tactics are not permitted in right-of-way negotiations.
- The Agent shall never use the threat of condemnation, even by inference, to effect a settlement. The Agent should explain condemnation proceedings when specifically requested or when it becomes apparent that agreement cannot be reached.
- The Agent will keep in mind that insofar as they are concerned, every appraisal, every offer, and every settlement is a confidential matter until the Governor and Council grants approval of the award of damages. When an owner brings up the question of the terms of settlement with a neighbor, the Agent is well advised to courteously reply such information is confidential and to reiterate that all offers are based on careful appraisals, which provide for equal treatment for all owners. The Agent is specifically enjoined, per direction from the Attorney General's office, from giving "Mr. A's" appraisal to "Mr. B." while in the process of negotiations, for example.
- The Agent will guard against indiscriminate remarks, which can be misunderstood. It is best for the Agent to hold the conversation to the offer and the physical effects of construction on the property.
- The Agent should avoid discussions on politics, religion, or other matters, which may become argumentative. Politics and religion are sensitive subjects with many people and it is wise to avoid disagreement in the discussion of such topics when agreement is being sought in the offer to acquire property. This is not to say pleasant conversation should be avoided, as it is a distinct asset in the effort to reach an agreement.
- The Agent should carry out the negotiations as expeditiously as possible without actually, or appearing to be, "rushing" the property owner. It is important that long delays between calls be avoided.

D. DUTIES OF THE LAYOUT COMMISSION

The Layout Commission is made up of three members, the Right-of-Way Agent, while not a member, serves as the Clerk of the Layout Commission. The Layout Commission is appointed by the Governor and Council. On non-limited access State highways, the Commission directs the public hearing and determines the necessity of the highway layout. The Commission also oversees the Right-of-Way acquisition process as an

impartial observer. The Right-of-Way Agent is the negotiating representative of the Department. The Agents' duties include but are not limited to the following:

- Make personal contact if possible with the owner by phone or in person.
- Contact by mail is acceptable after the initial contact is made.
- Disclose fully and fairly the effects of the proposed property impacts and rights to the owner.
- Give the landowner and others, if they desire, opportunity to examine the plans involved.
- Give an accurate statement as to when the acquisition transaction will be completed and what further action may be expected of the property owner with respect to possession.
- Advise the landowner with whom negotiations have been conducted of any changes which may affect the property, whether compensable or not.
- Acquaint the owner with their rights under condemnation.
- Offer to acquire any uneconomic remnant of land left as a result of the highway acquisition.
- Provide property owner a copy of the brochure "Your Land and New Hampshire Highways" or if relocation is required, "Public Projects and Your Property."
- Provide the owner with a copy of the appraisal that valued the impacts to their property.
- Provide the owner with a copy of the Offer-Agreement indicating:
 - Owners Name
 - Mortgages, liens, attachments
 - Amount of offer (Award/written Offer of Estimate of Just Compensation)
 - Special Agreements, if any,
 - Description of acquisition, i.e.: buildings, land area, easements
 - Salvage Value (if applicable)
 - Replacement Housing Payment (if applicable)

- Identify any separately held ownership (e.g. Tenant Owned improvements and indicate that it is not included in award).
- Explanation of the right to receive payment for pro-ration of taxes, any recording fee or transfer tax and any other incidental expense incurred in conveying property to the State.
- Explanation of other incidental expenses incurred in conveying property to the State such as recording fees, transfer taxes, evidence of title, boundary surveys, and legal descriptions of the real property.
- Provide owner with a copy of Request for Taxpayer Identification Number and Certification W-9 explaining purpose and request execution of same.

The Department recommends that at least one member of the Commission be invited to attend all phases of the negotiation process. If for some reason this is not possible, the Chief ROW Agent may designate an individual to serve as a substitute, as needed.

5.03 PROJECT PROCESS

A. ASSIGNMENT OF AGENT

A ROW Agent will be assigned to complete all aspects of the negotiation and relocation process. This usually coincides with the Hearing process and the Agent serves as the Clerk of the Commission, ideally, following the project through to completion. When ROW plans are submitted or individual appraisals are requested, the Chief Row Agent will finalize this selection into the Right of Way Management System (ROWMS).

B. PROJECT OVERVIEW

During a project overview, the Chief ROW Appraiser, Chief ROW Agent, ROW Engineer and assigned Agent will review the project and discuss any issues that need resolution or investigation and the Chief ROW Appraiser will determine which parcels may be designated as having nominal impacts or appraisals.

Parcels with nominal impacts, will be assigned nominal offer values by the Chief ROW Appraiser. During this overview, the agent will make an inventory of Improvements. This information is entered in the appropriate section of the ROWMS along with photographs of affected improvements, or any items designated as relocation items.

Also, during the overview, the Chief ROW Appraiser, Chief ROW Agent, ROW Engineer and assigned Agent should be aware of any properties where a determination of realty/personalty items will need to be made {24.103 (a) (i) and 24.205 (c) (C) may apply under the URA}, as amended.

The Agent should schedule a meeting with the appraiser in order to resolve issues involving the identification of realty or personalty items. This process is discussed further in the Appraisal Section of this manual, the Negotiation Section 5.03 (C) and in the Relocation Section 6.04.

In the case where the highest and best use in the appraisal does not consider any contributory value of residential buildings, if that is their existing use, the appraiser will determine the “carve out” value of the residential buildings, so that the Agent can determine the RHP. (See also Chapter 6.04 (N). Situations such as these should be identified during the overview.

C. NEGOTIATIONS WITH OWNERS

A personal contact meeting with the owners will always be attempted. However, in the situation with out of state owners, or when requested specifically, it may be more practicable to provide the initial offer to owners by mail. The letter of offer should embody to the extent practicable, the same information that would be presented in a personal meeting. The letter of offer to the owner will be sent certified or registered first-class mail.

The offer-agreement must be signed by the clerk and members of the Commission present when the offer is made and note any special negotiated agreements. If a partial taking is involved, commitments such as relocating or rebuilding fences, walls, driveway, landscaping will be written on the agreement. In general this is the final understanding with the property owner as to how the owners land will be left when the project is complete.

The Agent will present/submit the commitment to the Chief ROW Agent and ROW Engineer for approval, as indicated on the signed Offer-Agreement. The Agent will also discuss with the Agency and get pre-approval from the ROW Engineer and/or Project Manager of any work items agreed to that should be included in the project contract documents.

The Agent will obtain whatever information is necessary to complete the required forms and will leave one copy of the offer agreement, a copy of the appraisal, a copy of the right-of-way plan with cross sections, colored, indicating the impacts, a copy of a W-9 form and pro-ration of property taxes form, and a business card with the owner when the offer is presented on initial contact.

If the owner wishes to have more time to contemplate the offer, the Commission will leave two copies of the offer agreement. One copy to be signed and returned to the Agent, the other to be retained by the owner along with the documents listed above. The Agent shall also make the owners aware of their right to be reimbursed for the cost of their own appraisal up to the amount of \$1000.00 in accordance with RSA 498 – A:4 II (b).

The property owner shall be given at least 45 days in accordance with RSA 498 – A:4, II (f), to consider the offer, obtain his own appraisal and obtain professional advice or assistance if desired.

Appropriate requests by the landowners for additional monetary compensation over and above the estimate of just compensation (approved appraisal) will be submitted for consideration to the Agent and the Chief ROW Appraiser. The request can be based on factual data such as more recent sales, owner has a current independent appraisal, or items the State’s appraiser might have overlooked in their appraisal which impacts the value of the property. If the landowners’ request is deemed reasonable, the Chief ROW Appraiser may add additional compensation to the initial offer.

If an appropriate request for additional monetary compensation over and above the estimate of just compensation (approved appraisal) is requested beyond the scope of adjusting the appraisal, (appraisals are not adjusted without consideration of additional information), the agent may draft an Administrative Settlement Letter for the ROW Agent Supervisor, Chief ROW Agent, ROW Engineer, and ROW Administrator review. Once this draft is approved within the ROW Bureau, it is forwarded to the NHDOT Executive Front Office for approval. See Section D for further information on the Administrative Settlement process.

If the owner is left with an uneconomic remnant, the Agent will offer to purchase it at the approved estimate of just compensation (approved appraisal). If after review by the Right-of-Way Administrator, it is deemed not needed for the right-of-way of the project, it will be listed with the property manager as surplus.

A revised offer shall be provided to the owner if the plans are revised. All offers of just compensation to be awarded are submitted to the Governor and Executive Council for approval by the Agent via the ROW Management System. This process will route the award through the Right-of-Way Administrator for consideration. The Right-of-Way Administrator or the Right-of-Way Engineer will prepare the necessary cover letter that accompanies the award list for submission to G & C.

It should be noted here that when any property is subject to a mortgage, the check for damages shall be made payable jointly to the owner and the mortgagee as well as any recorded lien holders. When the checks are received from the State Treasurer, they are processed by the Right-of-Way Administrative Assistant and then given to the Agent.

OWNER ACCEPTS OFFER

Once the owner returns the signed Offer & Agreement form to the Agent, the legal document transferring the property and/or property interest will be prepared by the Agent while waiting for the check to be processed. Upon receipt of the check the Agent arranges a closing with the property owner to execute the document, complete the IRS W-9 form if applicable, pro-rate property taxes, and tender the check. The document is recorded at the county registry of deeds.

OWNER REJECTS OFFER

If the initial offer was based upon a Nominal Offer or Project Land Value Study (Range of Value) and is rejected by the owner/s, the Agent, after attempting to negotiate a reasonable settlement, will submit a request for an appraisal to the ROW Engineer. The request will be forwarded to the Chief ROW Appraiser.

For all owners who refuse the offer based on Before and After appraisals, the eminent domain process is initiated pursuant to RSA 498-A.

A draft "Notice of Offer," "Declaration of Taking," "Notice of Condemnation," and "Condemnation Plan" are prepared by the Agent with assistance from the Clerical Staff and Land Titles Section and are forward to the Attorney General's Office with a copy of the updated abstract of title, copy of the Agents diary notes, the appraisal and a full scale copy of the Right-of-Way plan sheet. The Attorney General's Office will review and annotate the draft "Notice" and plan and return them to the Right-of-Way Bureau with their approval. The original plan of the property is to be kept in the owner's jacket. Upon receipt of the reviewed "Notice of Offer," the final "Notice of Offer" is prepared. This final "Notice of Offer" must cover all those items listed in RSA 498-A:4II (a) (as amended). The "Notice" is sent by certified mail to each owner and mortgagee and lessee of record, and others having an interest in the property. The owners have 30 days from the mailing date to accept. An award is submitted to Governor and Council for approval listing all the owners of record names as well as the Clerk of the N.H. Board of Tax and Land Appeals. This listing should have the word "or" between the owners name and the Clerk of the Board of Tax and Land Appeals.

If the Notice of Offer is not accepted the final Declaration of Taking is sent to the Attorney General's Office for signature and forwarded to the Clerk of the N.H. Board of Tax and Land Appeals for service and filing. (If land taking includes two counties, the Declaration should be filed in both counties). It cannot be filed until thirty (30) calendar days after the "Notice of Offer" is postmarked. The listing of owners must include any mortgages, liens and lessees of record but not any attachments on the property. The checks are sent to the Assistant Attorney General for deposit with the NH Board of Tax and Land Appeals, the abstracts are updated. A copy of Assistant Attorney General's letter of transmittal is forwarded to the Right-of-Way Bureau. The property described in the Notice of Offer and Declaration of Taking becomes the property of the State of New Hampshire as soon as the Declaration is filed.

- Copies of the Declaration of Taking are distributed as follows:
 - Original and one (1) copy for filing.
 - Two (2) copies for the sheriff for each party named.
 - Two (2) extra copies if land is in two (2) counties or if the bank is in a different county.

- Attorney General – One (1) copy with “Notice of Offer.”
- Reviewing Appraiser – One (1) copy.
- Right-of-Way Bureau – One (1) copy. This copy is sent to the Attorney General’s Office for his/her signature and date and returned.
- Liens – One (1) copy. If the Declaration of Taking has been filed and landowner decides to accept, the check is not to be sent to the landowner. The Right-of-Way Administrator will forward it to Attorney General by letter.
- When requesting docket markings, the original and one (1) copy should be returned to the Attorney General’s Office and one (1) copy filed after being signed by the landowner(s).
- The abstract of title is updated again to ensure all parties of record are listed prior to the check being deposited with the Clerk of the NH Board of Tax and Land Appeals by the Attorney General’s Office.
- The Clerk of the N.H. Board of Tax and Land Appeals prepares an “Order of Notice” with a return date, and attaches the Notices to the “Declaration of Taking” to go to each party being served. These are sent to the Sheriff of the County. In State owners are served a copy of the Declaration of Taking by the local Sheriff’s Department. Out-of-State owners are contacted by certified mail and receive the same information as in-State owners.
- The Sheriff serves the Notices and prepares a “Return of Service.” The original of the “Return of Service” is sent to the Right-of-Way Bureau along with the Sheriff’s bill. The Right-of-Way Bureau processes the bill for payment, makes a copy of the “Return” for their files. The original is forwarded to the Assistant Attorney General.
- When the owner(s) are located outside the State, the letter to the Clerk of the N.H. Board of Tax and Land Appeals will request that Orders of Notice be forwarded to the Right-of-Way Bureau. The Right-of-Way Bureau will serve the Notices by certified mail and check the block reading “Deliver Only To Addressee.” When the receipt comes back, a copy is made of the signed receipt and the original is sent to the Assistant Attorney General.

The final Notice of Condemnation is filed with the Register of Deeds in the county(s) where the property is located. It must cover all those items listed in RSA 498-A: 4. A file copy is retained in the Right-of-Way Bureau and a copy sent to the Attorney General’s Office. After the Notice of Condemnation has been recorded, the Right-of-Way Bureau sends a letter to the Attorney General’s Office stating the date, book and page of the recorded Notice of Condemnation.

Control Log Condemnation Tracking – A tracking system has been established in the ROWMS for entering all actions described above. These are entered by the Clerical staff and trigger subsequent actions.

D. ADMINISTRATIVE SETTLEMENTS

Upon (written or verbal) receipt of a counteroffer for additional monetary compensation over and above the approved appraisal (PLVS or reviewed appraisal), the agent will confer with the Chief ROW Agent, ROW Engineer, and Layout Commission as to the reasonableness of the counteroffer. The counteroffer should state the reason/s for the request.

If the owner's counteroffer is deemed reasonable by the Commission, ROW Agent Supervisor, Chief ROW Agent, ROW Engineer and ROW Administrator and in the best interest of both the owner and the State, the Agent will prepare a "Request for Administrative Settlement Memorandum" to the Commissioner of the Department of Transportation for approval. Upon receipt of the approval the Agent will submit for the additional settlement amount.

E. MORTGAGE/PARTIAL MORTGAGE RELEASES & TAX LIENS

The agent will prepare and secure a mortgage release from any/all mortgage lien holders on the property to be acquired in their entirety. The deed to the property must be executed first, then the mortgage(s) will be paid with the release(s) being forwarded to the agent for recording.

The agent will prepare and secure a partial mortgage release on strip acquisitions or easements when the damages to the property is greater than \$5,000.00 or in situations where the remaining property does not retain adequate equity to cover the balance of the outstanding mortgage(s). The partial mortgage release must be obtained prior to the execution of the deed for the acquisition from the property owner.

The agent will record at the appropriate registry any/all mortgage release/partial mortgage release/s along with the deed/easement document.

Municipal tax liens will be paid when the offer is sufficient to pay the entire lien and recording fees. The town will have the releases recorded at the appropriate registry.

5.04 RECORDS

A. PROJECT STATUS

The Agent must keep an up to date and complete status of each project acquisition. Project status is tracked by the Agent by entering various dates into the ROWMS.

B. AGENT DIARY

The Agent must keep a complete diary in the ROWMS of dates and times of all calls and progress made in negotiations. The diary will become a permanent record available for details concerning the parcel involved. It will be completed immediately after each contact with the property owner. The information for each contact will include, but is not limited to:

- The date and place of all contacts, including telephone calls.
- Parties of interest contacted and preset at the time of negotiations.
- Breakdown of offers made (dollar amounts).
- Special Agreements.
- Counteroffers.
- Reasons settlement could not be reached.
- Date accepted, rejected, award submitted, closing.
- Any other pertinent data.

In completing the diary the Agent should avoid general statements such as “wants more money,” “feels the offer is low,” “disagrees with the engineering” and give the owner’s specific objection or issues such as a sale not considered by the appraiser, a particular item not shown on the plans, etc. The Agent should not characterize the appraisal as to its validity, since these diaries are a part of the legal record. One of the purposes of the diary is to refresh the agents’ memory of details during negotiations and to assist the attorney general at the time of eminent domain proceedings. It is helpful to note in detail such items as where the plans were explained, features or impacts of the project which were noted, questions asked or statements made relating to the plans, checking the effects of the taking on the ground, and viewing the entire taking and easement areas. Items that should be noted also, are Requests by the owner for changes in plans and the agent’s reply to those requests. Each diary entry shall be entered electronically into the ROWMS, which indicates the name of the agent and the entry date.

Concerning an Agent’s conduct and code of ethics, all agents shall agree to the following when conducting negotiations:

- The written agreement embodies all considerations agreed to between the Agent and the property owner;
- The Agent understands the acquired property is for use in connection with a Federal-aid highway project when applicable;
- The Agent has no direct or indirect, present or contemplated future personal interest in the property or in any monetary benefit from the acquisition of the property; and
- The agreement was reached without coercion of any type.

C. PERMANENT RECORD PLAN

Upon completion of the acquisition process the Agent must verify all the right-of-way acquisitions and easements purchased. Notation or changes are made to the original right-of-way purchase plan. The Agent will prepare a permanent record plan. This record plan must accurately identify all land and easements acquired for each project. (See Appendix concerning detailed procedure for creating permanent Record Plans and recording ROW plans).

D. LANDOWNER AGREEMENTS

The Agent will be responsible for the compilation of the special Right-of-Way Agreements/Commitment. A written memorandum will be completed, dated and signed by the Agent and submitted to the Administrator Bureau of Construction. This memo will include any construction and related “Special Agreements” made between the Agent and the Owner. In addition, the memo will include: project name, federal number, State number, all parcel numbers, property owners’ names, address, telephone numbers, result of negotiation if condemnation indicated date acquired, and date that temporary easements expire.

E. TITLE UPDATING

The necessity for updating titles of the project owners will be determined by the Right-of-Way Agent. Changes can and do occur on a daily basis. Typically, offers should be made based on titles that are no older than 6 months. Requests for abstract updates will be submitted to the Right-of-Way Chief of Titles.

Before negotiating a parcel the Agent will check the title to determine any change after the original title research. In addition, at an appropriate time, the Agent will check with the owner about the status of the encumbrances shown and tactfully ascertain otherwise undisclosed liens, encumbrances, or other interests.

On total acquisition tracts, the Agent will check for unpaid taxes, special assessments, etc. If such liens exist, at an appropriate time the owner will be given the option of paying the taxes/liens or having that amount deducted from the acquisition payment and paid directly to the town/city or State. The Agent will request the abstract be updated on the day of closing prior to acquiring title from the owner.

Owners must sign all instruments in the same manner as shown on the recorded title.

5.05 RELEVANT OPERATIONS AND INFORMATION

A. DONATION OF RIGHT-OF-WAY

Right-of-Way may be acquired through the donation of property, provided the property owner is informed in writing, of the right to have the property appraised and to receive an offer based on an appraisal and has, in writing, relieved the NHDOT of its obligation to appraise the property in question. 49 CFR 24.108 and 49 CFR 24.102 (c) (2).

B. REALTY VS. PERSONALTY

In making a determination of whether an item is realty or personalty, the Agent should be governed by the list of items set forth by the Chief ROW Agent for use of his/her section as well as the appraisers.

In conformance with Federal requirements, the following conditions are recognized:

- Any interest acquired in real property must also provide for an equal interest in the buildings or other improvements located on the property, if the buildings or improvements must be removed or will be adversely affected by that property.
- Improvements acquired are considered to be part of the real property acquired, notwithstanding the rights or obligations of tenants. A tenant will be paid the fair market value of any such improvement, the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. Payment to the tenant for improvements must not result in duplication of payments. No payment will be made unless the owner disclaims all interest in the tenant's improvements. This is not to be construed to deprive the tenant of any rights to reject payment.
- The process for determining realty/personalty items should take place with the initial inspection of the property and be done in collaboration with the appraiser.

C. OWNER RETENTION OF IMPROVEMENTS

The owner of improvements located on lands being acquired as right-of-way will be offered the option of retaining those improvements at an approved retention/or salvage value.

- When a request for retention/or salvage value of a building is received from the owner by the Department the appraiser will determine the appropriate value.
- The Agent will present to the property owner the retention/or salvage value of the building at the same time the offer is made.

D. SURPLUS PROPERTY INVENTORY

All Agents, upon completion of a project, shall submit to the Property Manager Record Plans identifying all surplus property information. (Also see Procedure for Recording ROW Plans and Creating Permanent Record Plans. Appendix).

E. UNCLAIMED NOTICES OF OFFER

In accordance with the provisions of RSA 498-A:4, IV (a). Notices of Offer should be published once in a newspaper of general circulation in the county in which the property is situated. The newspaper should be requested to complete and return a certificate of publication. This is to be forwarded to the Attorney General’s Office for filing with the N.H. Board of Tax and Land Appeals.

A similar procedure will be required when the Declaration of Taking is filed and should be in accordance with RSA 498-A:8.

This special request will have to be made of the Clerk of the N.H. Board of Tax and Land Appeals in order to have the proper orders of notice issued for publication, and will be handled by the Attorney General’s Office.

F. CURRENT YEAR TAXES & INCIDENTAL EXPENSES

Current real estate taxes for the tract of land which will be affected by the highway construction project can be pro-rated. Taxes are pro-rated as of the date title is transferred to the State. A minimum payment of \$25.00 is paid.

G. HIGHER AND BETTER USE AND USING A CARVE-OUT TO DEVELOP AN RHP

In order to develop a Replacement Housing Payment for a 180-day homeowner-occupant when the residence has no contributory value, the Agent will need to use the following as a guide:

This situation occurs when the appraisal designates the present use as a “higher and better use”, for example, when the highest and best use is “as vacant”, although there is a residence located on “the larger parcel”. Sometimes in a transitional neighborhood the commercial value is a higher and better use and the residence has zero or minimal contributory value.

The appraisal should include a “carve out” value, which is the assumed residential value of the subject residence utilizing a lot size typical for the area. The Agent will use this hypothetical value as the base value in determining an RHP. This base value is subtracted from the cost of the applicable replacement dwelling and by this the Agent is able to determine the Replacement Housing Payment.

The Agency uses 49 CFR 24 (URA, as amended) 403 (a)(1) through (7) as the source for this policy.

H. PURCHASING MITIGATION PROPERTIES AND THE NEED FOR BOUNDARY SURVEYS AND/OR ACCURATE DESCRIPTION OF MITIGATION PARCELS

When a request is forwarded to ROW to purchase a mitigation parcel either the ROW Administrator or ROW Engineer will work with Title Section Chief and a member of the Agent staff to determine if a reasonable description of the property exists and if this description can be utilized for the purpose of appraising and acquiring the parcel. If the team determines the existing description is inadequate a boundary survey will be requested. Once the survey is completed it will be forwarded to ROW and distributed to the appraiser and agent working on the parcel.

Useful WEB sites:

<http://www.nh.gov/dot/org/projectdevelopment/rightofway/index.htm>

<http://www.gencourt.state.nh.us/rsa/html/indexes/default.html>

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LI-498-A.htm>

<https://www.sos.nh.gov/corporate/soskb/csearch.asp>

www.fhwa.dot.gov/realestate/

<http://www.hud.gov/offices/cpd/library/relocation/index.cfm>

<http://portal.hud.gov/hudportal/HUD?src=/press/multimedia/videos>

<http://www.huduser.org/portal/datasets/il/il10/index.html>

<http://www.irwaonline.org/eweb/startpage.aspx?site=IRWA2010>

<http://www.rightofwaymagazine-digital.org/row/20101112#pg1>

<http://idp.nneren.safemls.net/idp/Authn/UserPassword>

CHAPTER 6

RELOCATION ASSISTANCE (Revised 12/2010)

6.01 THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICIES ACT OF 1970 (THE UNIFORM ACT)

The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (URA) (Public Law 91-646), which became effective on January 2, 1971, and as amended, (“Final Rule” effective 2/3/05) has had a tremendous impact on all federal, state and local government agencies using federal funds in the acquisition of real property. All government agencies regardless of size or level must fully comply with the requirements of the URA in the acquisition of every privately owned property needed for federally funded public projects. Failure to comply may lead to the loss of federal funding and possibly to other serious consequences.

All references to the Uniform Act regulation, Final rule, refer to 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition For Federal and Federally Assisted Programs.

A. IMPLEMENTATION OF THE 1987 and 2005 AMENDMENTS

The 1987 Amendments named the U.S. Department of Transportation (USDOT) as the agency with lead responsibility for the Uniform Act. The Secretary of the USDOT delegated this responsibility to the Federal Highway Administration (FHWA). The Amendments require the lead agency in coordination with other Federal agencies to issue rules, establish procedures and make interpretations to implement provisions of the URA.

The primary goal of the 1987 and 2005 Amendments, was to establish government wide uniformity by requiring all federally assisted projects involving the acquisition of private property for the public good to implement 49 CFR Part 24.

In Title II, URA as amended (Final Rule) February 3, 2005 “The Declaration of Policy” sets forth the objectives “to ensure fair, equitable and consistent treatment of all persons displaced as a result of programs or projects undertaken by a Federal agency or with federal financial assistance”.

B. ADOPTION OF THE UNIFORM ACT BY THE NHDOT

The New Hampshire Department of Transportation adopted URA as amended, for all acquisitions, including all projects with no federal participation.

See CFR 49 Part 24 and RSA 124A for the Regulation.

6.02 PURPOSE

The purpose of the URA is to ensure:

- Owners of real property acquired for the public good are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners to minimize litigation and relieve congestion in the courts, as well as to promote public confidence in land acquisition programs.
- Persons displaced as a direct result of public projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.
- Acquiring agencies implement the regulations in a manner that is efficient and cost effective.

6.03 ADVISORY SERVICES AND ASSISTANCE

The State of New Hampshire Department of Transportation offers the relocation assistance program to all lawfully residing individuals, families, owners of businesses, farm operators, and non-profit organizations displaced by a public project. No relocation payments or advisory assistance shall be provided to a person who has been determined to be not lawfully present in the United States, unless such person can demonstrate that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent or child who is a citizen of the United States.

A. PROGRAM PURPOSE

The relocation program has two primary purposes:

- Provide advisory assistance to all property owners and tenants being displaced.
- Make monetary payments available to those who meet the eligibility requirements to help offset some of the costs experienced in being displaced.

B. PROGRAM OFFERED

Relocation advisory services and assistance must be offered to:

- Every lawfully residing displaced person.
- Any person occupying property immediately adjacent to the real property being acquired when the acquiring agency determines that such person or persons are caused substantial economic injury because of the acquisition.

- Any person who (of necessity) moves personal property from real property not located within the taking as a result of the acquisition of their business or farm operation.

Advisory services and assistance must be administered on a reasonable basis commensurate with the displacee's needs.

C. MINIMUM REQUIREMENTS

As a minimum, the Relocation Advisory Program must include such measures, facilities, or services as may be necessary to accomplish the following:

1. RESIDENTIAL

- Discuss and explain the advisory services available and relocation payments and the eligibility requirements for receiving them; assist in completing any applications or forms required.
- Determine the needs of displaced persons for relocation assistance.
- Provide current information on the availability, prices, and rental rates for Decent, Safe & Sanitary (DS&S) housing for sale and for rent.
- Assist individuals and families in obtaining and moving to comparable replacement dwellings that meet DS&S standards.
- Supply information concerning federal and state housing programs.
- Advise displaced persons that no relocation payments received under the URA shall be considered as income for the purpose of the Internal Revenue Code of 1954.
- Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to a new location.
- If necessary, arrange for social counseling, guidance, and assistance in accordance with the needs of those being displaced.
- Provide information relative to moving options to include actual cost of moving, self-move based on a percentage of the actual costs or scheduled move payments based on room count. Other items include storage costs, insurance and other incidental expenses.
- Calculate closing costs, increased interest, mortgage costs, etc.
- Advise persons of their right to appeal.

2. BUSINESS, FARMS, NON-PROFIT ORGANIZATIONS

- Discuss and explain the advisory services available and relocation payments as well as the eligibility requirements for them; assist in completing any applications or forms required.
- Determine the need, if any, of displaced persons for relocation assistance.
- Provide current information on the availability, prices, and rental rates of comparable replacement commercial properties and locations for displaced businesses, farm operations, and nonprofit organizations.
- Provide assistance to aid in their re-establishment with a minimum of delay and loss of earnings. In accordance with the URA.
- Where appropriate, refer business owners to the Small Business Administration for managerial and technical assistance and possible financial assistance.
- Provide information relative to moving options. Actual cost or self move options, and oversight.

In every case, the NHDOT must offer the assistance and services and be both willing and able to provide them if the displacee wants them. A displaced person can, of course, refuse relocation services and assistance.

Note:

Relocation notices must be developed consist with the requirements under 49 CFR 24.203.

6.04 RELOCATION PROCESS

A. CONCEPTUAL STUDY

Conceptual Study as described in (CFR pt. 24-Subpart B-24.205).

The first Relocation activity on a project is normally the preparation of a preliminary relocation plan for each highway corridor being considered for the project. This is commonly known as the Conceptual Study.

The Conceptual Study serves two important purposes: (1) it provides information considered in determining the final project location, and (2) it provides information used in developing the requisite environmental study for the project. This study also provides information used in the relocation statement presented at public hearings.

The first action to be taken in the preparation of a Conceptual Study is the collection of information to be included in writing an acceptable plan.

Environmental Justice issues are studied to avoid or minimize any disproportionately high impacts on minority and/or low-income populations. The study minimizes impacts by identifying concerns early and taking appropriate action. Title VI and Environmental Justice considerations are integral to all transportation projects where there is expenditure of Federal funds.

The required information should be collected as soon as possible after receiving notification from the Right-of-Way Engineer that a hearing plan or other acceptable map or drawing showing proposed locations is available.

The information to be addressed in a Conceptual Study is shown in Appendix 6.1.

The bases upon which the preceding findings were made must be established and documented.

The required information should be provided to the Project Manager for review.

The Project Manager will forward a copy to the Bureau of Environment for inclusion in the environmental study no less than 30 days prior to the hearing.

Attached to the Conceptual Study should be a relocation evaluation and cost estimate for each individual property. Information on this report should include all of the following which is applicable: affected alignments, photograph, owner of record, property type, physical address, parcel number, town/city map & lot number, business name with number of employees, estimated value and any and all estimated relocation costs.

For the purpose of avoiding any unnecessary concerns at this time by the property owner, the individual estimated values and relocation cost estimates should not be made part of the environmental study. Remove any individual estimated values and costs on the copy supplied the Project Manager for disbursement to the Bureau of Environment. This information is not meant to be part of the public document but rather a more detailed description for the Relocation Advisors use.

The Bureau will maintain in its files all attachments related to the study including, listings of available housing and business sites, tax cards and related information, copies of conversations with officials and any other related documents used in the preparation of the Relocation Conceptual Plan.

B. PUBLIC HEARING

After the Conceptual Study is completed and accepted, the project then proceeds to the Public Hearing.

At the Hearing the Bureau has the responsibility of assuring that those being displaced for each public project under its jurisdiction have adequate knowledge of the relocation program to enable them to take full advantage of the services and payments available. To satisfy this responsibility, the Bureau must take the following positive actions:

- Give full and adequate public notice of the relocation program.
- Present information about and provide opportunity for discussion of relocation services and payments at public hearings.
- Distribute copies of the agency's Relocation Booklet entitled "Public Projects and Your Property."

The Relocation Booklet (available in the Bureau) which gives an overview of the agency's relocation program must be distributed free of charge to all displaced persons.

This accomplishes two very important objectives: 1), to provide displacees a written explanation of the information they need to know concerning the Relocation Assistance and payments available to them; and 2), to meet the Department's legal obligation in disclosing this information.

The booklet must be placed in the hands of the displacees in the very early stages of the project, for example, booklets must be available at all public hearings involving displacees and they must be delivered in person to each displacee during the first Relocation contact, where this booklet will be reviewed in detail with the displacee.

C. PROJECT OVERVIEW

The assigned Agent in his or her combined capacity as negotiator and relocation advisor will determine with the help of an Appraiser, the ROW Engineer and Supervisor(s) which parcels may be designated as having nominal impacts, and during a Project Overview will assign nominal values, appraisals (LVA, Appraisal for Complete Acquisition, or a Before and After Appraisal for a partial acquisition) and make an Inventory of Improvements which may need to be relocated. This information is entered in the appropriate section of the ROWMS along with photographs of affected improvements, or any items designated as relocation items.

D. NOTIFICATION OF APPRAISAL

As soon as plans are developed to the point that an appraisal can be completed, the appraiser notifies the owner for the purpose of making an appointment to appraise the property. In the case of an advanced acquisition when plans may not yet be developed, the appraisal may be completed on total acquisitions not requiring a Before and After appraisal. Once the preliminary appraisal is completed it moves into the review process.

The Chief Appraiser gives notification that the preliminary appraisal is completed and now entering the review stage. This notification is sent through the ROWMS as a “notice of a relocation.” The notification is sent to the Chief ROW Agent, the Agent assigned to the project, the Chief of the Property Management

Section, and the ROW Engineer. This notification triggers the Agent that an acquisition that involves relocation will be occurring soon and therefore the Agent should meet the owner and/or displacees to explain the relocation process.

E. GATHERING OF PERTINENT DATA

The assigned Agent contacts the appraisal section for the purpose of gathering pertinent information that does not appear on the “Notice of Relocation.”

If available, the Appraiser who performed the appraisal and gathered pertinent data with a site visit is asked to provide information that may be relevant to Relocation. This information may include items such as, full name and address of the owner of record, occupancy status, telephone numbers, primary or secondary home and a review of the appraiser’s pictures of the subject property.

In the case where the highest and best use in the appraisal does not consider any contributory value of residential buildings, if that is their existing use, the appraiser will determine the “carve out” value of the residential buildings, so that the Agent can determine the Replacement Housing Payment (RHP).

F. TRACKING RECORD

Once pertinent information is gathered, a permanent tracking record needs to be established. Though not all data is available at the inception of the Tracking Record, space should be provided so that items may be filled in at appropriate times. The Right of Way Management System (ROWMS) is the principal method of tracking. This is done by utilizing all necessary modules in “The System” and by entering Project and Parcel Diary Notes with regard to displacees and relocation concerns. Information crucial to a good tracking system should include items such as, project name, federal and state numbers, file numbers, parcel numbers, owner of record, property address, property type, occupancy status, occupant’s name, initial visit, name of Agent, date offer made, date of vacating notices, date State took title, how title was taken, deed or condemnation, date moved out. This Tracking Record should also provide the necessary space for property management issues to include items such as asbestos surveys and abatements, demolition dates, rental dates etc. Notification to the Property Management Section through the ROWMS, which occurs initially with the Chief ROW Appraiser’s Notification to Review of a parcel that is a complete acquisition with a building and/or remaining tenants. The latter will be discussed additionally in the Turn Over to Property Management Section. (see section 6.06).

G. ASSIGNMENT TO AGENT

Once all the pertinent data has been gathered and reviewed by the Chief ROW Agent, the concerns and complexity of the relocation will be considered and the appropriate Agent will be assigned. Whenever feasible, the same Agent will be assigned to all displacements on a single project.

H. RESIDENTIAL SITE VISIT AND INTERVIEW

The appropriate time to schedule an initial interview with a residential owner/occupant is within 15 days of receiving the “Notice of Appraisal to Review.” The appropriate time to schedule an interview with a residential tenant is after the owner of record has been notified that the tenant will be approached by an Agent for the purpose of explaining relocation benefits and assured the tenant will be encouraged not to move prematurely. If the owner does not approve of the tenants being approached, it would be best to wait until the fair market offer for the property is presented to the owner.

At the appropriate time, the Agent will make an appointment to conduct a personal interview with the displacee at the residence being acquired. This meeting will determine the identity of all affected displacees, as well as identify special needs or concerns the displacees may have. The Agent will require the displacee to fill out and sign a Residential Validation and Displacee Data sheet. A valid New Hampshire driver’s license or other acceptable picture I.D. will be required at this meeting for determining a positive identification.

The Agency’s relocation booklet, entitled “Public Projects and Your Property,” will be explained in detail at this time by the Agent by following a checklist developed for this purpose.

This meeting is also used to gather pertinent data required on the displacement property, such as length of occupancy, number of rooms and their uses, square footage of the finished living areas, types of utilities etc. Photographs of the exterior are also taken at this time. This information is entered in the Relocation Module of the ROWMS and is necessary when searching for replacement decent, safe and sanitary properties. Before leaving this meeting, the displacee should be given the Agent’s business card, phone number, and the best time to reach the assigned Agent.

**I. BUSINESSES, NON-PROFIT ORGANIZATIONS AND FARMS
SITE VISIT AND INTERVIEW**

The appropriate time to schedule an initial interview with the owner/occupant of a business, non-profit organization, or farm is within 30 days of receiving the “Notice to Relocation” form. As described above this notice is sent via the ROWMS.

The appropriate time to schedule an interview, when the occupant is a tenant and not the owner, is after the owner of record has been notified that the tenant will be contacted by

an Agent for the purpose of explaining relocation benefits and assured the tenant will be encouraged not to move prematurely. If the owner does not approve of the tenants being approached, it would be best to wait until the fair market offer for the property is presented to the owner.

Whether the displacee is an owner or a tenant, the Agent will determine the appropriate time make an appointment, to conduct a personal interview and site visit.

A valid driver's license or other acceptable picture I.D. will be required at this meeting for determining a positive identification.

The Agency's relocation booklet entitled "Public Projects and Your Property" will be explained in detail at this time by the Agent by following a checklist developed for this purpose.

The on site visit should include a tour of the facility for determining the nature of the operation. The business owner will also be advised at this visit that a certified copy of the inventory of all personal property will be required prior to the move, as well as after the move.

As the Agent is touring the facility any items that may be questionable as to realty or personal property should be so noted.

J. DISPLACEE FOLDER

The Agent, upon returning from the interview, creates a folder in the displacee's name. On the outside tab of the folder (from left to right) should read; last name of displacee, first name, parcel number, project name and State project number and enters the corresponding information in the Relocation Module of the ROWMS. On the front of the folder is a cover sheet containing pertinent data. The cover sheet serves as a synopsis and must be kept up to date.

K. CONTACT APPRAISER TO DETERMINE REALTY/PERSONALTY

Under the amended regulation business moves may require the Agent to accompany the appraiser upon the initial visit. Though the appraisal visit often occurs prior to the Agent's initial site visit, it is sometimes necessary for a determination to be made between personal property and realty prior to the appraisal being written. The amended "Final Rule" (2005) makes explicit new reference to personally items under 24.103 (2) (i) and again in 24.205 (c) (C). Ordinarily, an on site visit with the appraiser, at the initial inspection, is unnecessary unless it is anticipated the business operation is complex in nature.

L. NOTIFICATION OF COMPLETED APPRAISAL

Once the appraisal is completed, the Chief ROW Appraiser submits the appraisal to the ROW Engineer (or ROW Bureau Administrator if the ROW Engineer is on extended leave) who then reviews and, if acceptable, signs the Appraisal "Approval Letter" for "Just Compensation". The ROW Engineer then makes a copy of the Approval Letter, giving the original letter back to the Chief ROW

Appraiser to be scanned into the ROWMS and provides a copy of the Letter with the actual appraisal to the Chief ROW Agent. The Chief ROW Agent reviews the appraisal, assigns the agent, and give it to the ROW Agent Supervisor for a third review and distribution to the assigned ROW Agent. The assigned Agent then takes the following appropriate action:

1. 180 Day Owner

- If the appraisal is for a long-term residential owner-occupant (in occupancy 180 days prior to the Initiation of Negotiations) the Relocation Advisor has two weeks in which to establish a Replacement Housing Payment.

2. 90 Day Owner

- If the appraisal is for a short-term residential owner-occupant (in occupancy not less that 90 days prior to the initiation of negotiations), the Relocation Advisor has two weeks in which to establish a Rental Supplement Payment.

3. Tenant

- If the appraisal is for a property that is occupied by a tenant you have yet to visit, prepare to make the initial visit after the offer is made to the owner of record.

4. Business

- If the appraisal is for a property that is occupied by a tenant who has not yet visited, the Agent must prepare to make the initial visit after the offer is made to the owner of record.
- The Agent will determine, after interviewing the displacee, if they need to prepare for an Extended Occupancy Agreement (EOA) or if they need to advise the ROW Property Management Section if a Lease Agreement will need to be executed when the State acquires title to the property.

M. ESTABLISHING REPLACEMENT HOUSING PAYMENT OFFERS OR RENTAL SUPPLEMENT PAYMENT OFFERS

1. Establishing Replacement Housing Payment Offer:

- A Replacement Housing Payment offer needs to be determined for the long term residential owner occupants and a Rent Supplement Payment offer needs to be calculated for short term owner occupants or tenants.

- The Relocation Advisor has 2 weeks to establish the Replacement Housing Payment Offer from the time of notification of the approved appraisal figure.

- To establish a Replacement Housing Payment requires the Agent to search the real estate market for active listings that are available to purchase and are functionally similar to the structure being acquired by the Agency. To achieve this, it is necessary for the Agency to require it's Agents to be members of the Concord New Hampshire Board of Realtors and maintain membership with the Northern New England Real Estate Network to access real estate listings. If available, at least 3 comparable replacement dwellings shall be examined and the eligibility computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. The comparable chosen must be inspected by the ROW Agent for Decent, Safe and Sanitary conditions as described in more detail in 49 CFR Part 24.2(f).

- The upper limit of a Replacement Housing Payment (RHP) is based on the cost of the most comparable replacement dwelling found and is calculated by determining the amount of money which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the difference between the amount paid by the Agency for the displacement dwelling and the amount determined by the Agency as being necessary to purchase the most nearly comparable Decent, Safe and Sanitary replacement dwelling available.

- The amount of the calculated Replacement Housing Payment (RHP) Offer is reviewed the ROW Agent Supervisor and approved by the Chief ROW Agent and the ROW Engineer. The approved RHP value is then offered simultaneously with the appraised value offer.

2. Establishing Rental Supplement Payment (RSP) Offer:

- In computing a Rental Supplement Payment (RSP) Offer, the ROW Agent must search the available market for comparable rental units, which will accommodate the needs of the displacee. The amount currently being paid for rent in the displacement dwelling is deducted from the confirmed price of the most nearly comparable (or better) Decent, Safe and Sanitary rental dwelling currently available for rent by the displacee. Also, see the Uniform Act Sec.

24.402 Replacement Housing Payment for 90-day occupants, part (b), (2), the lesser of the above or (ii): Base monthly rental for displacement dwelling. (must consider (30) percent of the person's average gross household income, or (iii), welfare assistance payments, if applicable).

- The resulting difference, when multiplied by 42 months, is the Rental Supplement Payment (RSP) Offer. The Rental Supplement Payment for the short-term owner or tenant will be presented by the Right-of-Way Agent, simultaneously with the appraised value offer.
- The Rental Supplement Payment (RSP) Offer should be established within 2 weeks of the initial visit with the tenant or short-term owner occupant.
- See 49 CFR pt. 24-Subparts A & E for all applicable regulations regarding the definition of "comparable replacement housing" Replacement Housing Payment and Rental Supplement Payments.

3. Mobile or Manufactured Housing Occupants:

- Mobile/Manufactured Housing once connected to permanent utilities for water, sewer, electric, gas, etc., containing 320 square feet or more, that is built on a permanent chassis and designed to be used as a dwelling unit is considered real property as opposed to personal property. Relocation benefits offered the displacees remains the same as benefits offered displacees of conventional housing.

N. CARVE-OUT PROCEDURE

In order to develop a Replacement Housing Payment (RHP) for a 180-day homeowner-occupant when the residence has no contributory value, the Agent will need to use the following as a guide:

This situation occurs when the appraisal designates the present use as a "higher and better use", for example, when the highest and best use is "as vacant", although there is a residence located on "the larger parcel". Sometimes in a transitional neighborhood the commercial value is a higher and better use and the residence has zero or minimal contributory value.

The appraisal should include a "carve-out" value, which is the assumed residential value of the subject residence utilizing a lot size typical for the area. The Agent will use this hypothetical value as the base value in determining an RHP. This base value is subtracted from the cost of the applicable replacement dwelling and by this the Agent is able to determine the Replacement Housing Payment.

The Agency uses 49 CFR (URA, as amended) 403 (a) (1) through (7) as the source for this policy.

O. WRITTEN OFFER OF JUST COMPENSATION

1. Owners

- Once the appraisal figure and the Replacement Housing Payment (RHP) Offer for the long-term owner/occupant and Rental Supplemental Payment (RSP) Offer for the short-term owner/occupant are established, the Right-of-Way Agent makes the offer to the owner. The Right-of-Way Agent also notifies the owner of the amount of the Replacement Housing Payment (RHP) and the location of the property, which was used for determining the amount available. The Right-of-Way Agent also notifies the owner of the amount of the Rental Supplement Payment (RSP) available if they are a short-term owner. Comparable housing must also be available.

2. Tenants

- The Agent will present rent Supplement Payments (RSP) calculated by the Agent to the tenant shortly after it is calculated.

3. Business

- Once the appraisal figure is established the Right-of-Way Agent can make the offer to the owner of record.
- The Agent should at the time of the offer, obtain as much information as possible from the owner regarding tenants. At the very least the Agent should get the Business Name, address, phone number and a contact. If possible, the Agent should obtain a copy of the current lease agreement between owner and tenant.
- The Agent shall then meet individually with tenant business representatives to establish eligibility and begin the relocation process.

P. 90 DAY NOTICE

A (90) Ninety Day notice is issued to the owner/occupant within (10) ten days of the offer being made. The Ninety Day notice includes a statement that the displacees will not be required to move from the property before 90 days from the date of the notice and that they will be receiving a subsequent (30) thirty day written notice specifying an actual date by which the property must be vacated.

A (90) Ninety Day notice is issued to the residential tenant displacee within (10) days of the Rent Supplement Payment Offer being offered to the tenant. The Ninety Day notice includes a statement that the displacee will not be required to move from the property before 90 days from the date of the notice or until such time the State has title to the

property, whichever is later and that they will be receiving a subsequent (30) thirty day written notice specifying an actual date by which the property must be vacated.

A (90) Ninety Day notice is issued to a business owner or tenant within ten days of all benefits being explained.

A (90) Ninety Day Notice may be waived if the displacee vacates the premises prior to a (90) ninety-day notice being sent. A waiver must be completed and filed in the file jacket.

Q. PROVIDE ADVICE AND ASSISTANCE

Once the offer has been made and the (90) Ninety Day Notice has been sent, the Agent shall advise and assist according to the displacee's needs. This could vary from minimum assistance when the displacees involved are well informed and fully able to manage their displacement, to almost unlimited advisory services and assistance for those who are unable to manage their displacement.

The Agent should be in continual contact with the displacees if assistance is needed. The Agent should be providing current and continuing information on the availability, prices, and locations of comparable DS&S housing. The Agent should supply information concerning federal and state housing programs and provide other advisory services in order to minimize hardships. If the need should arise, the Agent should arrange for social service counseling and guidance.

R. ACQUIRE TITLE

Once the title to the property is transferred to the State of NH either by deed or condemnation, the Right-of-Way Agent notifies the Property Management Section so the appropriate actions can take place. This notification is sent through the ROWMS as a "Title Taken (and Building Taken)" The notification is sent to the Chief ROW Agent, the Chief of Property Management, the Agency Property Manager, and the ROW Engineer. This notification triggers the Property Management Section that the agent will be turning over the property to the section at some point in the future and it the opportunity for the agent to provide the status of the property and if the agent has executed an Extended Occupancy Agreement (EOA) with any owners who still occupy the premises. Any tenants who still occupy the property should have executed a lease with the State and all rental payments need to be forwarded the State. It is important that the Agent discuss the details of Extended Occupancy Agreements with owners and the State's lease requirement with tenants prior to the State acquiring title.

Once the Displacee has vacated the premises and all personal property has been removed, the agent then notifies the Property Management section that the responsibility of monitoring and maintaining the physical building will be transferred to Property Management. This notification is sent through the ROWMS as a "ROW Building Turnover Report". The notification is sent to the Chief ROW Agent, the Chief

of Property Management, the Agency Property Manager, and the ROW Engineer. This notification triggers the Property Management that the agent will be turning the responsibility of managing the physical building on the effective date of the notification and it is the opportunity for the agent to provide the status of the building, any issues to be aware of and if there is any abandoned personal property.

S. ACTUAL VACATING NOTIFICATION

Actual vacating notifications should be sent to residential occupants within (10) ten days of the title passing to the State of NH. The Notices should be sent certified mail, return receipt requested. This notification gives an actual date the occupants will be required to vacate the displacement property. The vacating date established may not be earlier than the date used in the letter for the (90) Ninety Day notice and must allow the occupant at least (30) thirty days notice of the actual vacating date. Ideally, the vacating date is coordinated between the owner and Agent so that adequate time is provided prior to construction to allow the owner or tenant to relocate. Actual vacating notifications may be waived if the displacee vacates the premises before a vacating date is established. A waiver must be completed and filed in the file jacket.

1. Eviction for Cause:

- If the displacee should refuse to leave the premises on the established actual vacating date and an extension has not been granted by the Agency, the State Attorney General's Office is notified to proceed with an eviction action in accordance with NH Law – RSA 540.

T. RESIDENTIAL MOVE ASSISTANCE

The Agent should arrange a meeting with the Displacee soon after the Actual Vacating Notice is mailed. This meeting should discuss the upcoming move and remind the Displacees of their responsibility for the co-ordination of the move. Though the documentation required to receive reimbursement was discussed at the initial interview with the Displacee, it should once again be discussed so that there is no misunderstanding.

Residential moving cost payments cover the cost of moving personal property classified as household goods, furniture, appliances, and any other items used in the establishment and maintenance of a home. Items of personal property that are used in conducting a part-time or hobby-type business in the home can also be included in residential moving cost claims only if- such business does not qualify for a Fixed (In Lieu Of) Business Payment.

SELF MOVES – moves that may be performed by the displaced person in one or a combination of *Actual Cost Moves* and/or the *Fixed Residential Moving Cost Schedule*.

1. *Actual Move Payment: 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 exceeds the cost paid by a commercial mover. (per “Final Rule” URA 2005, as amended, [24.301 (b) (2) (ii)].*

The residential displacee is entitled to payment of the actual moving and related expenses, as the agency determines to be reasonable and necessary, including expenses for:

- Reimbursement for the reasonable expenses incurred in moving personal property, up to 50 miles.
- Packing and unpacking of the personal property.
- Disconnecting, dismantling, re-assembling and re-installing to connections at the replacement site, household appliances and other personal property.
- Reimbursement of the one-time service fees charged by utility companies.
- Reimbursement of storage fees not to exceed a 12-month period. Reimbursement of expenses moving out of storage within the 12-month period.
- Insurance for the replacement value of the property in connection with the move and storage if not already covered.

Per URA 2005, as amended 24.301 (c) Self Moves based on the lower of two bids or estimates are no longer eligible for reimbursement under this section.

2. Scheduled Move Payment:

Any residential displacee may choose to accept a predetermined amount of money based on room count. This payment is known as the Scheduled Move and Dislocation Payment and is a one time all-inclusive payment. (as referenced in 24. 301 (b) and 24.302, as amended).

3. Moves performed by a professional commercial mover.

Regardless of the moving alternative chosen, no moving payments shall be released to the displacee or the moving company until all personal property has been satisfactorily removed from the site and the dwelling left in a “broom clean” condition.

U. BUSINESS, FARM, AND NON-PROFIT ORGANIZATION MOVE ASSISTANCE

The Agent arranges a meeting with the business, farm or non-profit organization owner or tenant soon after the Actual Vacating Notice is mailed. This meeting discusses the upcoming move and the displacee's responsibility for the co-ordination of the move. Though the documentation required to receive reimbursement was discussed at the initial interview, it should once again be discussed so there is no misunderstanding. The discussion should state that all business, farm or non-profit organization displacees, whether owner or tenant, are entitled to re-imburement for the reasonable expenses incurred in moving personal property, up to 50 miles, when:

- The personal property involved is located on real property acquired by the agency either as an entire or partial acquisition.
- The owners move the personal property from the area being acquired **after** the initiation of negotiations for the real property or **after** receiving a Notice of Intent to Acquire.
- All moving cost estimates must be **pre-approved** by the displacee's Agent.

A non-residential move may be paid on the basis of actual reasonable moving expenses, plus up to an additional **\$100,000.00** for re-establishing in accordance with RSA 124 – A:3, and 49 CFR Part 24, Sections 24.303 and 24.304.

See 2005 URA “Final Rule” as amended, 24.301 (d) for eligible expenses in moving personal property from a business, farm or nonprofit organization.

49 CFR 24.301 (d) (1) : A *commercial move* based on the lower of two bids or estimates by a commercial mover. An uncomplicated move can be based a single bid.

or

49 CFR 24.301 (d) (2) : A *Self-move* payment based one or a combination of i.) the lower of two bids or estimates prepared by a commercial mover or qualified Agency Staff person. At the Agency's discretion an uncomplicated move may be based on one bid; or (ii) supported by receipted bills for labor and equipment. [see 24.301 (d) and 24.301 (e)].

NOTE:

Under the 2005 amended URA 24.303 items that had previously been part of the re-establishment expenses in 24.304 are now encompassed under moving expenses on an “actual, reasonable, and necessary” basis. 1.) Utility connections from right-of-way. 2.) Professional services prior to purchase/lease to determine suitability. 3.) Impact fees and one-time assessments.

Under certain circumstances, the displacee may be eligible to receive a fixed payment of not less than \$1,000.00 or more than \$20,000.00 in lieu of actual expenses. The fixed payment is based on a two-year average of the annual net earnings for a business or farm operation.

Non-profit organizations base a fixed payment on gross revenues less administration expenses. To qualify for a fixed payment certain conditions must be met.

Please see 49 CFR Part 24 Subpart D for a further explanation for moving payments involving businesses, farms and non-profit organizations.

V. MOVE OUT AND INSPECTION

The displacee is responsible for notifying the Agent of their moving date regardless of which option they choose.

Prior to any moving payments being released, a walk through of the displacement residence is scheduled with the displacee to assure that all personal property has been satisfactorily removed. The inspection of the property should be scheduled as soon as the displacee has all personal items removed. If the inspection proves satisfactory, the displacee gives all the property keys to the Agent who turns the keys over to the Property Manager. (See Section 6.06 Turnover). The moving payment may then be released for the move.

W. PAYMENT REQUESTS

When submitting a payment request for a relocation payment, the Agent must create a "Relocation Assistance (RA) Claim Form" and a "Relocation Claim Justification Form". These two forms should explain the amount of the payment allowed under the applicable regulations contained in 49 CFR 24 Subparts C,D,E or F and the relationship of the payment to the specific categories of the CFR and the Agency's Policy of Relocation Claims. All relocation award documentation need to be thorough and clearly explained so that it is "*Self-Evident*" or "*Self-Explanatory*".

The "Relocation Assistance (RA) Claim form" consists of the Project name, State #, parcel #, date and the name of the ROW Agent. The form also includes the name, address and contact information of the claimant. On this form the Agent needs to identify the item(s) that the payment is based upon, the name of the payee and the total payment of the claim. Lastly the agent needs to sign the claim form and also obtain signatures from the claimant on the claim form.

The "Relocation Claim Justification Form" is to provide an auditor or reviewer a written narrative explanation of the payments made. The "Relocation Claim Justification Form" will consist of the project name, State #, Parcel #, date and the name of the ROW agent. The form also includes the name, address and contact information of the claimant. In the narrative portion of the "Relocation Claim Justification Form",

the agent must provide written explanation and Justification of the payment request and also cite the actual regulation in subparts C, D, E or F that specifically pertain to their payment request. Lastly, the ROW agent needs to sign the “Relocation Claim Justification Form”. It is critical that the written narrative explanation justifies that the award is Actual, Reasonable and Necessary to reimburse the Displacee for the costs incurred.

Copies of all “Relocation Assistance RA claim forms” are included in the appendix of this manual.

The Agent will then submit both the “Relocation Assistance (RA) Claim Form” and the “Relocation Claim Justification Form” with all corresponding backup for the payment request to the Chief ROW Agent. Concurrently the Agent will submit the payment request in the ROWMS for approval. The payment request will first be reviewed by the Chief ROW Agent and then by the ROW Engineer or ROW Administrator. The “Relocation Assistance (RA) Claim Form” and “Relocation Claim Justification Form” are provided to the Chief ROW Agent and the ROW Engineer or ROW Administrator as backup support for the payment request review process. Once the Chief Agent’s review is complete he/she will forward the “Relocation Assistance (RA) Claim Form” and “Relocation Claim Justification Form” along with all other backup information to the ROW Engineer or ROW Administrator for use in their review. After final approval and after the check is issued, all documents supporting the payment request are scanned into the attached files of the ROWMS. Then the submitted package is returned to the Agent for inclusion in the physical relocation file.

6.05 RIGHT TO APPEAL

Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person’s application for assistance under this part. Such assistance may include, but is not limited to, the person’s eligibility for, or the amount of, a relocation payment. The Agency shall consider a written appeal regardless of form.

Time limit for initiating appeal – once the person receives notification of the Agency’s determination; the displacee has 90 days to appeal in writing to the Commissioner of the Department of Transportation. See 49 CFR Part 24.10.

6.06 TURN OVER TO PROPERTY MANAGEMENT

If the property being inspected has been acquired well in advance of the construction project, the Agent should be noting the general condition of the property to include any obvious structural problems and obsolescence. General information in regards to this property should be so noted in the “Turn Over Report” submitted to the Property Management section This information will help in determining if the property will be rented until needed for construction, advertised for sale and removal or demolished. See Section 6.04 (R) for more information.

6.07 EXTENDED OCCUPANCY AGREEMENTS

A. OWNERS

Below are standard operating procedures that are to be followed when acquiring owner occupied buildings. Prior to acquiring title to the property it is the Agent's responsibility to make the owner familiar with the Extended Occupancy Agreement (EOA), as well as, the execution of the EOA. The owner will be asked to sign the Extended Occupancy Agreement at closing. The purpose of this document is to provide a clear understanding of the terms of the extended occupancy, with regards to maintenance responsibility, cost and liability.

Standard Operating Procedures

1. Before the closing, the Agent will need to develop the EOA using a standard template and gathering the following information detailed below:
 - The date of the closing.
 - Whether a business or a residence agreement is needed.
 - The name(s) of the parties involved. If this is for a business, the name of the owner as well as the name of the business is required.
 - The mailing address of the owner.
 - The physical address of the property. Please include the county.
 - The term of the agreement you want, i.e. 3 months, 6 months. This is dependent on the Advertisement Date of the project and/or the owner's relocation time frame. The longest period available for an EOA is 6 months. Any longer than that will require a lease that will be created by the Property Management section.
2. Instruct the prior owner to contact their insurance carrier after closing to have the State added to their policy as additional insured for liability. You should also instruct the owner to take all coverage off the building as they will no longer be the owner and could not collect if damage happened to the structure. This new policy is commonly referred to as renters' insurance. It covers contents and liability.
3. Once the EOA has been developed, it needs to be reviewed by the Chief ROW Agent or the ROW Agent Supervisor.
4. Once finalized, the Agent should make two copies and request the ROW Administrator that he/she sign them before the Agent brings the documents to the Displacee. The Agent must notarize both copies before the ROW Administrator and a Witness.
5. Take the EOA to the closing, have both copies signed and notarized by the Displacee and leave a copy with the owner.

6. Scan the signed notarized copy into the ROWMS under the Attached Files and make a copy to be added to the physical Relocation File Folder.

B. TENANTS

When the State acquires a building that is tenant occupied, all tenants will be asked to sign a lease with the State at the time of closing, rental rates are to remain unchanged from the amount that was being paid to the former owner; however payments are to be submitted to the State. Prior to acquiring title to a rental property, the Agent, with assistance of the property management section, is to obtain copies of current lease documents that are in place. With this information, the property management section will draft a new lease between the State and the tenant to cover the period of occupancy between the time when the State acquires title and when the tenant vacates the property.

CHAPTER 7

CONDEMNATION, LEGAL SETTLEMENTS

7.0.1 PURPOSE

The purpose of this chapter is to outline the process to be followed to be in compliance with Federal and State laws and the applicable regulations relating to condemnation and legal settlements for property needed for Federal or State projects.

7.02 AUTHORITY

The condemnation procedure used by the State of New Hampshire, Department of Transportation (“Department”), is generally outlined in New Hampshire Revised Statutes Annotated (RSA) Chapter 498-A: Eminent Domain Procedure Act. Enacted in 1971, RSA 498-A was intended "to provide a complete and exclusive procedure to govern all condemnations of property for public uses including the review of necessity, public purposes and net-public benefit, and the assessment of damages therefore." (RSA 498-A:1. The law requires that the Department, prior to taking property by eminent domain, cause an appraisal of the property proposed to be acquired to be made "by an impartial qualified appraiser "(RSA 498-A:4:II(a)). Prior to condemnation, the Department must also "make reasonable efforts to negotiate with the [landowners] or their personal representatives for the purchase of the property" (RSA 498-A:4, II (b) at this time the Department must provide the property owner with a copy of the appraisal report and must allow the property owner at least 45 days to consider the offer, before issuing the owner a formal Notice of Offer. The law further requires that no property can be taken, unless the Department issues the condemnee a written Notice of Offer to purchase, setting forth the purpose for which the property will be taken, a description of the property to be taken, the amount of compensation offered and the fact that eminent domain proceedings will be instituted if the offer is not accepted within 30 days (RSA 498-A:4,III(5)).

7.03 ORGANIZATION

All legal services for the Department are furnished by the Transportation and Construction Bureau of the Attorney General’s Office. They provide all legal services relating to eminent domain actions as well as contract litigation, and defense of all claims or suits against the Department.

7.04 COMPLIANCE WITH FEDERAL AID REQUIREMENTS

It is the intent that there will be compliance with all Federal aid requirements applicable to condemnation proceedings and legal settlements. The Code of Federal Regulations (CFR) and Federal Aid Program Manual (FAPG) are made a part of these procedures by this reference. In

any particular case not specifically covered by the provisions of this manual, or in cases of conflict, the applicable provisions of the CFR or FAPG will govern.

7.05 PROCESS

A. Decision to Condemn

The decision to condemn is made by the Right-of-Way Administrator. Generally, the legal staff's first involvement with a proposed taking is a review of the description of the property contained in a draft Notice of Offer. This draft Notice of Offer is prepared upon a determination by the Right-of-Way Administrator the property cannot be amicably acquired by negotiation or by administrative settlement. If the landowner does not accept the offer made by the Department within 30 days after the formal presentation of the offer, a Notice of Offer, the Declaration of Taking and Notice of Condemnation are sent to the Attorney General's Office for final review and execution prior to filing with the N.H. Board of Tax and Land Appeals (BTLA) and the appropriate Registry of Deeds. The Attorney General's Office is also provided a copy of the approved appraisal(s) in connection with the parcel, an updated abstract of title, and copies of all pertinent correspondence and Agent diary notes .

B. Taking of Title

Title to the property passes to the State upon the filing with the BTLA , of a Declaration of Taking describing the property to be acquired (RSA 498-A:5). The BTLA issues orders of notice, which are then served on the landowners either by a sheriff or by certified mail. The Department is entitled to possession or right of entry upon the property only after depositing a check equal to its estimate of just compensation with the BTLA (RSA 498-A:11).

C. Hearing

After the filing of the Declaration of Taking, the BTLA fixes a time and place for a hearing on the issue of the amount of compensation to be paid to the condemnee (RSA 498-A: 24). Following a hearing, the BTLA files a report of a case, including its award of damages (RSA 498-A:26). Either the Department or the condemnee may appeal for a jury trial de novo in Superior Court. The appeal must be made within 20 days after the BTLA report (RSA 498-A:27). If the Jury's award is not acceptable to either party, then the case may be appealed to the New Hampshire Supreme Court.

D Interest

Interest at the rate of the discount rate of interest on 52-week United States Treasury bills plus pertinent percentage points, rounded to the nearest tenth of a percentage point per annum is paid on the difference between the BTLA award or a jury verdict and the amount deposited with the BTLA at the time of the filing of the Declaration of Taking.

E. Attorney General Involvement

The legal staff in the Attorney General's Office represents the Department in all phases of the eminent domain procedure following the filing of the Declaration. The Assistant Attorneys General have the authority to negotiate out-of-court settlements subject to the approval of the Right-of-Way Bureau Administrator and the Governor and Council. The attorneys only settle cases, however, in the best interest of the State and within relatively narrow guidelines. The criteria considered in settling cases include the following:

- legal or empirical deficiencies in the Department's appraisal or in the condemnee's appraisal;
- interest and costs to which the condemnee may be entitled;
- whether a case involves complex valuation problems, and
- recent court awards in the area of the taking.

F. Compromise Settlement

In every instance where a compromise settlement is reached by the attorney handling the case, or the amount of settlement is substantially in excess of the approved appraiser's estimate of damage, a letter is written to the Commissioner of the Department of Transportation setting forth in detail a description of the parcel involved, particular problems which may have arisen during negotiations which might affect the State's position on the issue of damages, the basis for the State's appraised figure and for the landowner's demand, and the reasons for settlement. If the Right-of-Way Administrator concurs in a settlement, a copy of the letter along with a contemplated award list is submitted to the Governor and Council.

G. Check

Concurrently, a letter is written to the Commissioner explaining the details of the case, and a check is requested for the balance due the landowner. This request is submitted to the Governor and Council by the Department by way of the contemplated award list. Upon approval of each settlement by the Governor and Council, a check is issued and forwarded to the Attorney General's Office. It is then sent to the landowner (or their attorney) together with docket markings to file with the BTLA so that the case may be closed.

CHAPTER 8

8.01 SURPLUS LANDS

This leasing or disposal of State owned property follows a process that is shown in the Appendix, whether it is for leasing or sale of property. Appendix pages 136 and 137 provide a more detailed process, depending upon whether the property is being Leased State Owned Land or Disposal of State Owned Property respectively. The Property Manager is responsible for the process and providing accurate records.

Upon determination the property is suitable for a rental unit, the property keys and all information will be turned over to the Department's Property Management Contractor.

If the property being inspected has already been determined as a demolition, the Agent is responsible for having all utilities shut down and removed, such as; water meters read and pulled, electric meters and services removed from the structure, arranging for the draining of pipes etc. The Agent provides the Property Management Section with a Turn Over Report so noting the dates when all the utilities have been disconnected. This report signals the Property Management Section to order an asbestos survey and abatement prior to the demolition.

Once the property is vacated, it will be cared for in one of three ways.

If the property acquired is needed for construction purposes in the near future, the property will be overseen by the Relocation Advisor assigned to the project until such time the property is sold for removal or is awarded to a demolition contractor.

If the property acquired is an advanced acquisition, it will be cared for by one of the Department's outside Property Management Companies either as a rental property or as a closed property.

If the property was purchased for proximity and not required for the road construction, the Department's Property Manager will begin the process of selling the property through a sealed bid process to the high bidder. Disposal of real property acquired with Federal-aid funds must be in conformance with 23 CFR 710.409, which includes property disposed of at less than market value. Property disposed at less than market value shall be submitted to the Federal Highway Administration for review and approval.

APPENDIX

CHAPTER 230

STATE HIGHWAYS

Layout of State Highways

Section 230:13

230:13 Occasion for Layout by Governor and Council; Layout. –

I. The governor, with advice of the council, may determine upon hearing whether there is occasion for the laying out or alteration of a class I or class II highway or a highway within the state included in the national system of interstate highways as proposed by the commissioner of transportation, and, if so, shall appoint a commission of 3 persons who may purchase land or other property that is reasonably necessary for the construction, reconstruction, or alteration and who shall lay out the remainder of such highway or alteration. Any such land or property which cannot be acquired by agreement with the owner or owners thereof may be acquired in accordance with RSA 498-A and all issues that are appealed relating to necessity, public use, and net public benefit shall be determined in accordance with RSA 230:19. Property rights acquired under the provisions of this section shall be in fee simple or in the form of easements, including property acquired by condemnation proceedings.

II. The commission may acquire such property as it determines reasonably necessary to:

- (a) Lay out and establish, construct, improve, or maintain, provide a change of alignment of, or provide drainage for class I or class II highways.
- (b) Construct, improve, and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects.
- (c) Provide rest areas, parking strips, and roadside and landscape development for the preservation and development of natural scenic beauty.
- (d) Provide for the health, safety, and welfare of the public using a class I or class II highway.
- (e) Secure materials, with necessary ways and access, for the construction, improvement, and maintenance of class I or class II highways.
- (f) Erect administrative, storage, and operational buildings.

Source. 1945, 188:1, part 4:1. 1950, 5:1, part 9:1, par. 3. RSA 233:1. 1981, 87:1. 1983, 297:7. 1985, 402:6, I(b)(2). 1992, 150:3. 1998, 74:1. 2006, 324:22, eff. Jan. 1, 2007.

CHAPTER 230

STATE HIGHWAYS

Layout of State Highways

Section 230:14

230:14 Layout by Commission. –

I. The governor, with advice of the council, may appoint a commission of 3 persons who, upon hearing, shall determine whether there is occasion for the laying out or alteration of a class I or class II highway or a highway within the state included in the national system of interstate highways as proposed by the commissioner of transportation and if so, the commission may purchase land or other property that is reasonably necessary for the construction, reconstruction, or alteration and shall lay out the remainder of such highway or alteration. Any such land or property which cannot be acquired by agreement with the owner or owners thereof may be acquired in accordance with RSA 498-A and all issues that are appealed relating to necessity, public use, and net public benefit shall be determined in accordance with RSA 230:19. Property rights acquired under the provisions of this section shall be in fee simple or in the form of easements, including property acquired by condemnation proceedings.

II. The commission may acquire such property as it determines necessary to:

- (a) Lay out and establish, construct, improve, or maintain, provide a change of alignment of, or provide drainage for class I or class II highways.
- (b) Construct, improve, and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects.
- (c) Provide rest areas, parking strips, and roadside and landscape development for the preservation and development of natural scenic beauty.
- (d) Provide for the health, safety, and welfare of the public using a class I or class II highway.
- (e) Secure materials, with necessary ways and access, for the construction, improvement, and maintenance of class I or class II highways.
- (f) Erect administrative, storage, and operational buildings.

Source. 1945, 188:1, part 4:2. 1950, 5:1, part 9:1, par. 3. RSA 233:2. 1981, 87:1. 1983, 297:8. 1985, 402:6, I(b)(2). 1992, 150:4. 1998, 74:1. 2006, 324:23, eff. Jan. 1, 2007.

CHAPTER 230

STATE HIGHWAYS

Damages for Taking Property

Section 230:32

230:32 Required Filing. – Whenever proceedings have been completed under the provisions of this chapter for the taking of land or other property for class I or class II highways the commissioner of transportation shall cause to be recorded in the office of the register of deeds for the respective county where said land or other property is situated a plan of the final taking together with all deeds, if any, received by the state in such taking, which deeds shall make specific reference to said plan, and, if eminent domain proceedings have been had hereunder, a copy of the return of the commissioners showing the highway or any alteration by them laid out as provided in RSA 230:20 shall be recorded in said registry of deeds.

Source. 1953, 175:1. RSA 233:26. 1981, 87:1. 1985, 402:6, I(b)(2).

**TITLE XLVIII
CONVEYANCES AND MORTGAGES OF REALTY
CHAPTER 478**

REGISTERS OF DEEDS

Section 478:1-a

478:1-a Recording of Plats. –

I. No register of deeds shall file or record a plat of a subdivision, or a plat prepared for the purpose of showing existing property lines, if such plat has not been prepared and certified by a licensed land surveyor, since July 1, 1981, or by a registered land surveyor between January 1, 1970 and June 30, 1981, and any such filing or recording shall be void. For the purposes of this section the definition of the word "subdivision" shall be that contained in RSA 672:14. A "plat" for the purpose of this section shall be a map of a specific land area whose boundaries are defined by metes and bounds. A plat may show:

(a) Newly created parcels, streets, alleys, and easements as in a subdivision; or

(b) A lot-line-adjustment or site plan depicting existing parcels defined by legal descriptions contained in deeds, grants, or other legal documents.

II. Each register of deeds shall establish a policy for providing adequate space, on the plat, for recording the registry plan number and recording information.

III. The register of deeds shall refuse for recording any map that does not meet the definition of a plat under paragraph I and any plat that does not contain the information or meet the specifications required by this section. Construction plans, construction details, and maps that do not define the limits or extent of legal rights or interest in land shall not be recorded.

IV. All plats shall be drawn with the following sizes: 8.5" x 11," 11" x 17," 17" x 22," 22" x 34," or such specifications and sizes as may be required by the register of deeds. The material composition of the plats shall be suitable for electronic scanning and archiving by the register of deeds.

V. All plats shall have a minimum of 1/2 inch margins on all sides.

VI. All text and dimensions shall be legible for reproduction, and the text sizes shall be no smaller than .08 of an inch for mechanical drafting and 1/8 inch for hand drafting.

VII. All certifications, seals, and approval blocks shall have original dates and signatures in a legible, permanent black ink.

VIII. All title blocks shall be located in the lower right hand corner, when possible, and shall indicate the following:

(a) Type of survey, such as a boundary survey, subdivision, American Land Title Association (ALTA) survey, or lot line adjustment.

(b) Owner of record.

(c) Title of plat or development.

(d) Tax map number.

(e) Name of the town in which the parcel is located.

(f) Plat and revision dates.

IX. All plats shall have a scale both as a written and graphic representation.

X. All plats shall have a north arrow with reference to magnetic grid or astronomic north, as

applicable. The north arrow shall be labeled with its reference direction.

XI. Shading over any text shall not be permitted on any plat. Cross hatching or other hatching at a scale large enough not to interfere with text legibility, before and after reproduction, may be permitted.

XII. No lines, whether hatching, boundary lines, or topographic contours shall obstruct or interfere with the legibility, either before or after reproduction, of any bearings, dimensions, or text.

XIII. The minimum line widths on plats shall not be smaller than .01 inches.

Source. 1988, 233:3. 1995, 303:1, eff. Jan. 1, 1996. 2004, 103:1, eff. Jan. 1, 2005.

EXAMPLE

ROW PLAN REQUEST

From: _____

Date: _____

To: Robert Talon, LLS
Land Titles

Thru: Victoria Chase, PE
ROW Engineer

Project name: _____ State #: _____ Is Project Chargeable by ROW? Yes / No

If "No" List Chargeable Project: _____

Public Hearing Date: _____ Advertising Date: _____ Completion Date Requested: _____

Brief Project Description: _____

Special Considerations: White Mountains National Forest, State Lands,
 Conservation Land, Condominiums, Other _____

Type of Request (**to be accomplished in descending order**):

1) Project Limit Review: Determines how the existing Right of Way was established within the project area to define the level of survey detail needed to reestablish the Right of Way limits. After this has been determined the survey request can be initiated and the preliminary legacy alignment, if applicable, done upon survey completion.

Include a copy of the as-built plans showing bound locations with the request.

2) Tax Map Level ERL/ERT: Right of Way types and limits are accurately defined from NHDOT records and other sources based on survey detail. Existing Right of Way lines will now be set. Property lines, owner names and parcel numbers are added based on Tax Map information.

This level is completed in order to identify potential areas of impacts beyond the State's ownership and easement rights.

Provide survey field books and as built plans with the request.

3) Abstract Level ERL/ERT: Develops an Abstract of Title for all impacted properties. Property lines and acreages are adjusted based on deeds and plans obtained from the title abstract. *A plan depicting project impacts must be provided with all Abstract Level requests.*

This level needs to be completed prior to calculating impacts.

4) ERL/ERT Update: Updates title abstracting to find any changes in property owners, parcel lines and acreages. Required before Public Hearing Notification and prior to Purchase Plan production and Property acquisition. *A plan depicting project impacts must be provided with all Update Requests.* Use this box to also request investigation of ROW plan concerns or problems (identify below).

Comments: _____

ROW Plan Request Information Sheet

The ROW Plan Requests need to be completed in the order listed to ensure proper plan development and avoid costly delays and/or rework in the final plan development and ROW acquisitions. At the completion of each level, Right of Way will submit a memo to the requester that the level has been completed and that will also list any requirements or issues needing resolution prior to proceeding to the next level. Once the issues or requirements have been addressed and accepted by the Right of Way Bureau the requester can proceed to the next level.

Level 1. **Project Review should be accomplished at the project initiation.** This is important, as it will determine the level of Survey and Right of Way effort needed to complete Level 2. It will also be helpful to the project team in gaining an understanding of the right of way limitations within the project area.

Level 2. At this level, all survey detail has been accomplished and the existing detail processed in Microstation for use. The person requesting should also be providing the survey field books and as built plans along with the request. The Right of Way Bureau will now develop the existing right of way line work (ERL) plan showing the limit of the ROW and existing right of way text (ERT) plan for design use. The ROW limits should now be set and finalized and the State's rights ascertained.

This is identified as a tax map level because the ownerships and property interest beyond the ROW line have not yet been determined and are only at tax map level. However, because the ROW is accurate the design team can begin determining the potential areas of impacts for the next level.

Level 3. Once the potential areas of impacts are known, the abstracting of impacted parcels can begin. A title abstract determines property ownership and limits along with any other interested parties, mortgage holders, lien holders etc. of the abutting parcels for the proper notification prior to public hearing and for the acquisitions of property and easements. **If scope of project changes resulting in additional impacts this level will need to be redone.**

Level 4. Updates the Level 3 plan whenever there are known changes or questions of property ownership and prior to the Public Hearing and within 3 months of Purchase Plan preparation. This level may be repeated depending on project development timeline.

THE CALVIN J. COLEMAN REVOCABLE TRUST OF
14 COLEMAN DRIVE
ALBANY, NH 03818

Parcel # : 0349
State Project : CONWAY
Project # : 11339B
Parcel Address: 54 RTE 16, ON N'LY SIDE OF RTE 16 @
ALBANY-MADISON TOWN LINE
County : CARROLL
Town or City : MADISON
Tax Map : 202 Lot # : 22
Area : 68.98 ACRES

Encumbrances	Source Of Title
<p>* CONSENT Book: 1894 Page: 283 Date Of Execution: Witnessed?: No Recorded Date: 12/1/2002 Not Discharged RE: LEASE @ 1868/428, SEE CY</p>	<p>* QUITCLAIM DEED Book: 2488 Page: 373 Date Of Execution: 12/5/2005 Witnessed?: No Recorded Date: 12/12/2005 \$40.00 CALVIN J. COLEMAN TO HIS TRUST, = 2287/65 0 %</p>
<p>* LEASE Book: 1868 Page: 428 Date Of Execution: 5/9/2000 Witnessed?: No Recorded Date: 6/28/2000 Not Discharged OPTION & LEASE TO SBA TOWERS, INC, EXPIRES 2005 W(10) 5 YR EXTENSIONS</p>	<p>WARRANTY DEED Book: 2287 Page: 65 Date Of Execution: 4/1/2004 Witnessed?: No Recorded Date: 4/27/2004 \$5,025.00 JOHNSON ET AL TO COLEMAN, = 2050/222 0 %</p>
<p>* DEED OUT/ EASEMENT Book: 426 Page: 361 Date Of Execution: 3/26/1968 Witnessed?: No Recorded Date: 4/9/1968 Not Discharged TO STATE OF NH RE: RTE 16, .12A & SLOPE/DRAINAGE EASEMENT</p>	<p>WARRANTY DEED Book: 2050 Page: 222 Date Of Execution: 8/4/2002 Witnessed?: No Recorded Date: 8/12/2002 \$0.00 PAULINE I. THOMS TO JOHNSON ET AL, = 306/346 & 306/349 0 %</p>
<p>* BOUNDARY LINE AGREEMENT Book: 410 Page: 251 Date Of Execution: 10/20/1966 Witnessed?: No Recorded Date: 12/29/1966 Not Discharged BETWEEN CHMIELEWSKI, SMITH & THOMS, FIXES S'LY & E'LY BNDY OF THOMS PCL</p>	<p>POA Book: 1870 Page: 214 Date Of Execution: 4/15/1992 Witnessed?: No Recorded Date: 7/7/2000 \$0.00 TO WIFE PAULINE I. THOMS, SEE CY 0 %</p>
<p>* EASEMENT/RW LANGUAGE Book: 306 Page: 349 Date Of Execution: 8/4/1955 Witnessed?: No Recorded Date: 8/16/1955 Not Discharged AS PER DEED CY, SEE SAME</p>	<p>QUITCLAIM DEED Book: 362 Page: 541 Date Of Execution: 8/17/1962 Witnessed?: No Recorded Date: 8/28/1962 \$0.00 THOMS TO THOMS, 1/2 INT IN MANY TRACTS INCL 306/346 & 306/349, PURSUANT TO DIVORCE BETWEEN THOMS IN CUMBERLAND COUNTY, MAINE. 0 %</p>
<p>* EASEMENT/RESERVATION LANGUAGE Book: 306 Page: 346 Date Of Execution: 7/25/1955 Witnessed?: No Recorded Date: Not Discharged RESERVATION OF RIGHTS, PIPELINE EASEMENT RE: SWIFT BROOK, SEE DEED CY</p>	<p>QUITCLAIM DEED Book: 360 Page: 274 Date Of Execution: 5/29/1962 Witnessed?: No Recorded Date: 5/30/1962 \$0.00 HASTINGS TO J.ROBERT THOMS, CREATES T/C BETWEEN THOMS, = 360/272 0 %</p>
	<p>WARRANTY DEED Book: 360 Page: 272 Date Of Execution: 5/29/1962 Witnessed?: No Recorded Date: 5/30/1962 \$0.00 THOMS TO HASTINGS, INCL. 306/346 & 306/349, STRAW CONVEYANCE TO CONVERT JT TO T/C. 0 %</p>
	<p>WARRANTY DEED Book: 306 Page: 349 Date Of Execution: 8/4/1955 Witnessed?: No Recorded Date: 8/16/1955 \$5.50 BELL TO THOMS AS JTRS, 10 A LOT @ MADISON - ALBANY TOWN LINE 0 %</p>
	<p>WARRANTY DEED Book: 306 Page: 346 Date Of Execution: 7/25/1955 Witnessed?: No Recorded Date: \$3.30 ST. JOHN TO THOMS AS JTRS, N'LY SIDE RTE 16 IN MADISON & ALBANY 0 %</p>
	<p>Probate Docket: 2002-45 CARROLL Name: J. ROBERT THOMS DOD: 10/20/2001</p>

For Description Refer To :

- * Deed : 306/346 & 306/349
- * Plan : 5/52; SEE ALSO 207/70

ENCUMBRANCES

MORTGAGES :	No	RESTRICTIONS :	No	RESERVATIONS :	Yes
TAX LIENS :	No	ATTACHMENTS :	No	EASEMENTS :	Yes

Defects & Comments / Description

UPDATED @ 9:30 AM 5-23-2007 FOR CONDEMNATION

NOTE: THIS PCL ABSTRACTED BY RVT, UPDATED AS FOLLOWS: BY REW THRU 11/3/95, FROM 11/3/95 BY JHL.
NOTE THAT ANY INSTRUMENT CY NOT CONTAINED IN THIS ABSTRACT IS ENCLOSED W/PCL #6 ABSTRACT.
C/O = SOLE OWNER, CALVIN J. COLEMAN AS TRUSTEE OF THE ABOVE TRUST.
NOTE THAT LEASE @ 1868/428 IS INSPECIFIC AS TO LOCATION, SO IS REPORTED AS APPLYING TO BOTH THIS PCL
AND TO PCL #6; LESSEE, SBA TOWERS, INC SHOULD BE RUN AS WELL AS C/OS WHEN UPDATING.

-FORMERLY TM 16 LOT 15

-SAME BACK TITLE AS PARCEL 6

-NEW TAX MAPS SAY 69 ACRES, BUT APPRAISAL IS BASED ON OLD FIGURE, SO NO CHANGE WAS MADE - GS

Abstracted By: J.LAPOINTE 1/9/2004

Modified By: J.LAPOINTE 9/29/2004

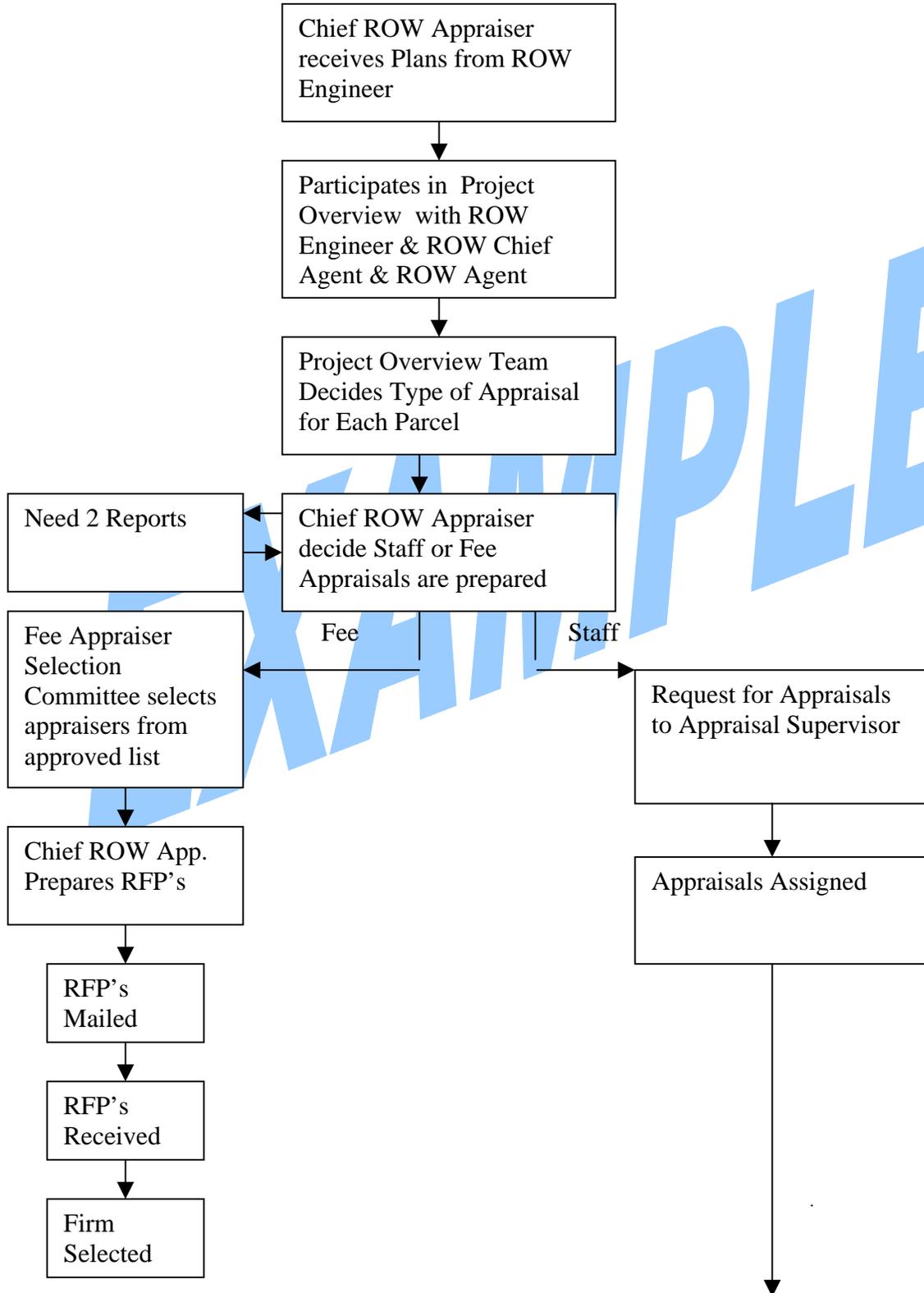
Modified By: J.LAPOINTE 11/16/2005

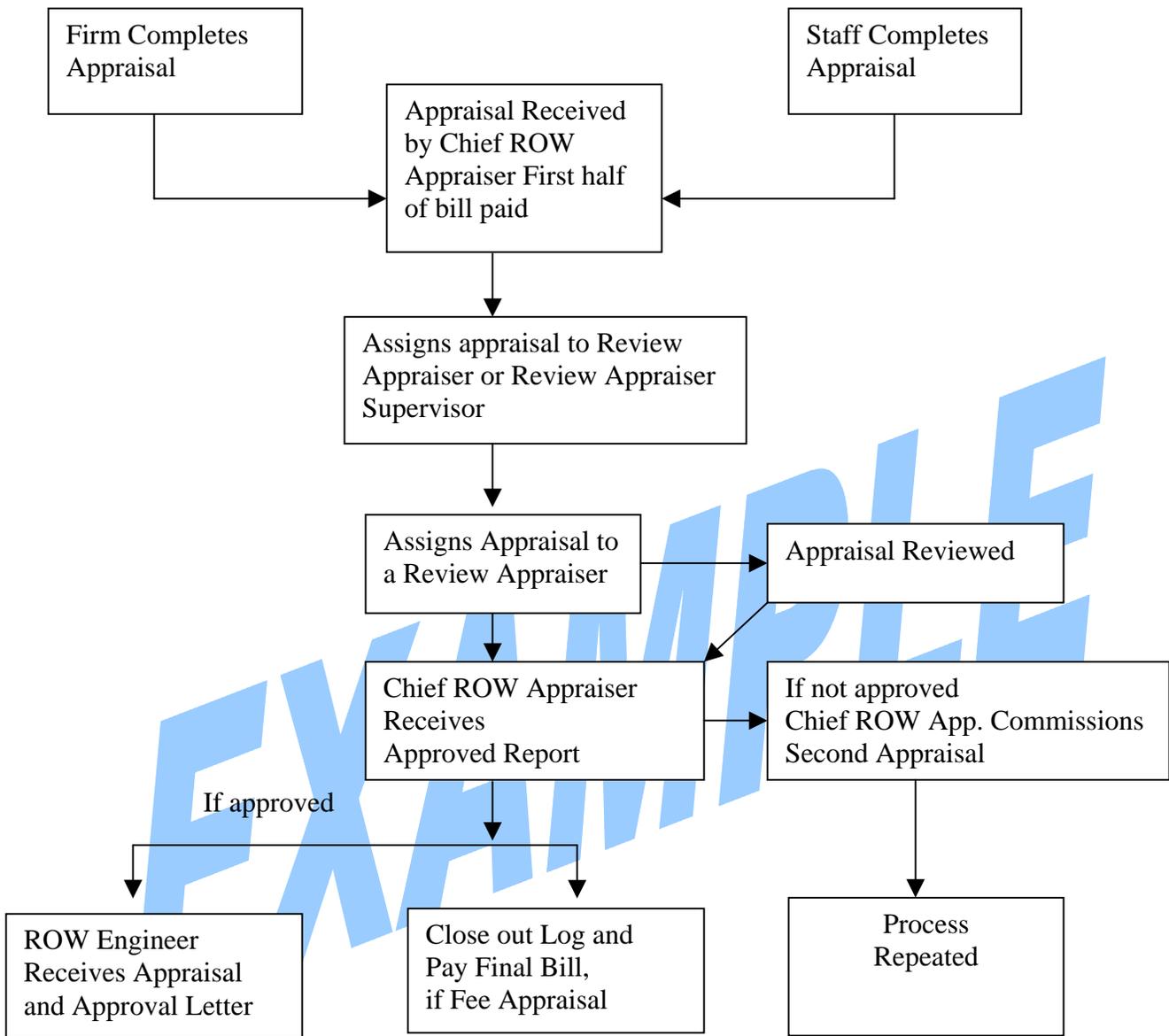
Modified By: J.LAPOINTE 7/11/2006

Modified By: E.SARGENT 5/23/2007

Printed : 12/20/2010

**OVERALL APPRAISAL PROCESS
REGULAR PROJECTS**





**REQUEST FOR SURPLUS LAND DISPOSAL
DEPARTMENT OF TRANSPORTATION**

I. ADDRESS REQUEST TO:

(), Administrator
Bureau of Right-of-Way
NH Department of Transportation
PO Box 483
Concord, NH 03302-0483

II. PROVIDE: "I/We wish to acquire State land in the City/Town of
.....".

- (a) Identify property with sufficient information for the Department to locate on highway plans.
- (b) Provide plan or sketch to show abutters and outline of property.
- (c) Indicate what information you used that shows the State as the owner.
- (d) Enclose with the request a payment, either by bank check or certified check for the amount of \$500.00 made payable to "Treasurer, State of New Hampshire". This is an Administrative Fee for the processing of your request. Upon receipt of this payment, the Department will begin the disposal process.

III. Your request will be acknowledged and an indication given on what action will be taken. The Property Manager is the coordinator for all actions listed.

IV. State properties under the control of the Department of Transportation are reviewed by several Bureaus within the Department to determine if the property is surplus. This routinely requires investigation by the Bureaus of Highway Maintenance, Environment, Rail and Transit, Highway Design and Turnpikes. If Federal funds were used in the project, concurrence from the Federal Highway Administration is also required.

V. Should land be determined surplus to the Department's needs, the following requirements become necessary depending on the type of ownership. Any or all steps may be necessary. If the parcel involves an abandoned highway easement along the abutter's frontage, then the steps begin with item (d).

If the Department determines the requested area is not surplus to the Department's needs, the \$500.00 Administrative Fee will be refunded to the requester.

(a) Valuation

The parcel is evaluated to determine fair market value. This evaluation may be completed by an appraiser and/or by real

estate professionals depending on the property being sold. The Department will charge an additional fee for this process based on the costs incurred by to the Department (minimum \$600.00). The requester will be provided with an estimated cost of the valuation process prior to this work being completed.

(b) Legislative Screening (Long Range Capital Planning and Utilization Committee)

A legislative committee reviews the pending sale for procedure and value.

(c) Right of Refusal

1st The property must be offered to the NH Housing Finance Authority.

2nd The property must be offered to the municipality where the parcel is located.

3rd The property could also be sold or transferred to another state or county agency if interest is expressed.

(d) Governor and Executive Council

The final proposal is brought before the Governor and Executive Council for the authorization to sell the parcel.

(e) Department of Transportation

A sale is then completed by accepting sealed bids or direct sale.

The above process takes 1 year or longer to complete, depending on the individual parcel requirements.

If the requesting party is not the successful bidder for the property, a refund of all paid valuation fees will be made to the requesting party and the successful bidder will be responsible for all valuation fees.

OUTLINE FOR LEASING STATE OWNED LAND

The following is the typical process for leasing of State Owned Land:

- I. Letter from a potential leasee requesting an opportunity to “acquire” State Owned Land (SOL).
- II. Request for Department Review.
- III. As a result of the Department Review a decision was made (by Property Manager, or Bureau of Right-of-Way Administrator or Front Office) to retain the subject parcel and keep in State ownership. An alternative available to the public is a ground lease for a period of five (5) years with an option for an additional five (5) years (standard term).
- IV. When approval is received to lease the subject parcel, an appraisal is requested to determine the reasonable fair market value of the subject.
- V. A letter to the potential leasee is sent to see if they are agreeable with appraised value before we proceed further with process.
- VI. Submission is made to the Long Range Capital Planning and Utilization Committee (LRCPUC) which meets 3 or 4 times a year at their own pleasure. An original and 16 copies of the submission is forwarded to the Office of the Legislative Budget Assistant for this step.
- VII. After approval from LRCPUC three (3) draft copies of the lease are forwarded to leasee for their review. If okay, they will sign where indicated on signature page. If they request a revision, then if appropriate, the Bureau will make the requested changes and forward three (3) new drafts for their signature.
- VIII. A submission is made to Governor and Council, Secretarial Staff processes to Commissioner’s Office for Commissioner’s signature on both the Resolution and on all three (3) copies of the lease. The signed leases and copies are given to the Attorney General’s Office for review and signature and then to Secretary of State’s Office where they will stay until approved by Governor and Council. Once approved, one copy is forwarded by the Secretary of State to Administrative Services and two (2) copies are returned to ROW.
- IX. Fully executed lease is mailed to leasees with cover letter. Different than a deed where the payment is due in advance of the delivery of the deed, a lease has a clause that allows for its cancellation for non-payment.
- X. Leasees forward payment which is processed as a credit refund to Finance and Contracts into the proper accounts.

OUTLINE FOR DISPOSAL OF STATE OWNED PROPERTY

The following is the typical sale/transfer process for State Owned Land:

- I. The Department receives a letter from a potential buyer addressed to the Commissioner or directly to the Bureau of Right-Of-Way (ROW) personnel requesting an opportunity to acquire State Owned Land (SOL).
- II. A reply is prepared by the Department to be signed by either the Commissioner (ROW prepared) or from the Property Management Section stating that ROW is working on the request. An outline of the disposal process, Appendix 1, outlining procedures when disposing of SOL is attached to the letter to the buyer.
- III. Before Bureau personnel begin work on the request, the Department needs to receive a check from the requestor for the amount of \$500.00. This payment is an Initial Administrative Fee and should be a check made out to "Treasurer, State of New Hampshire" An initial Administrative Fee is not necessary when the request is made by a municipality or could be waived at the discretion of ROW
- IV. If the request is of a complex nature or politically sensitive, an Initial Front Office review should be completed before a Departmental Review is requested
- V. Once the initial Administrative Fee is paid and an Initial Front Office Review (if necessary) is complete, a Departmental Review should be requested (see attached Form)
- VI. When the Departmental Review is complete, the comments are summarized and a Final Front Office Review is prepared. This review is circulated thru the Front Office via the ROW Administrator. Copies of all responses for the Departmental Review as well as other pertinent documentation, a summary of the responses as well as a Final Front Office Review form (orange colored paper) are all forwarded with this Final Front Office Review
- VII. During the Departmental Review, the Bureau of Environment may note that the disposal of this parcel needs to be reviewed by the Rivers Management Advisory Committee (RMAC) or by the Lakes Management Advisory Committee (LMAC). If the parcel is declared to be surplus, a copy of the review sent by Environment as well as a cover letter should be sent to the Committee specified. This request should be sent to either entity by both e-mail and messenger mail.
- VIII. If the property is declared surplus the Department's needs, the next step is to establish a fair market value for this parcel. To do this, the Pre-qualification Committee will review the parcel and determine how the property will be valued. Properties can be valued by either an appraisal by a Staff Appraiser, requesting market analysis through Tra 1000 "Process for Marketing and Sale of State Owned Property Utilizing Real Estate Professionals" or by both methods if deemed necessary. These market analyses are requested by pre-qualified realtors on file in ROW located in 4 regions of the State. A copy of this request along with pertinent maps and appraisal information should be sent to all firms in the Region that the property is located.

- IX. Once values are received, the Pre-qualification Committee makes a recommendation of a value that the State will present to the Long Range Capital Planning and Utilization Committee (LRCPUC). For landlocked properties with value only to an abutter, the buyer is sent the proposed value to be sure they are in agreement with the value before proceeding.
- X. Submissions are sent to the Long Range Capital Planning and Utilization Committee (LRCPUC), which meet about 6-8 times a year, at their discretion. An original submission and 19 copies of the submission are forwarded to the Office of the Legislative Budget Assistant located in Room 201 at the State House.
- XI. Upon receiving approval by LRCPUC, before the Department proceeds with the sale of this parcel, letters need to be sent to the municipality in which the property is located as well as the New Hampshire Housing Finance Authority (NHHFA) offering the property to them for sale at the approval value prior to offering the sale of the property to the public. We request a 30-day notice to notify the Department of their interest.
- XII. If no response is received from the municipality or the NHHFA, the Department would proceed with the sale of this property by either signing an listing agreement with a pre-qualified realtor, a sealed bid process to the general public is conducted, a sealed bid process with the abutters only or a direct sale is made with the conditions as approved by LRCPUC.
- XIII. Once a potential buyer is found under the conditions with Long Range, a submission is made to Governor and Executive Council, which the secretarial staff processes for Commissioner's signature and then makes necessary copies for submission.
- XIV. Governor and Executive Council approval.
- XV. A draft of a Quitclaim Deed is sent to buyer for review and comment.
- XVI. Final documents are prepared and forwarded for the Commissioner's signature.
- XVII. The sale is finalized either at a closing or by mail. If by mail, a fully executed deed is mailed to the buyer once full payment is received with registry postcard and instructions.
- XVIII. The payment received is processed as a credit refund to Finance and Contracts into the proper accounts. When the registry postcard is returned to ROW, the recording information with a copy of the executed deed/ G&C resolution and other pertinent information is forwarded to the respective Maintenance District that the property is located. Also a note of this sale is made on the record plan(s) on which this property is located. Finally pertinent documentation concerning this sale placed either in the corresponding jacket file(s), project folder(s) or in the ROWMS under the corresponding parcel(s).

This process is a guide only and may vary due to the particulars of a specific request.

**STATE OF NEW HAMPSHIRE
INTER-DEPARTMENT COMMUNICATION**

FROM: ()
Administrator

DATE:

SUBJECT: **Final Front Office Review
Property Disposal Request**

AT: Dept. of Transportation
Bureau of Right-of-Way

TO: ()
Commissioner

THROUGH: Assistant Commissioner and All Directors

The Department has received correspondence from _____ requesting the opportunity to:

purchase property purchase an easement lease other

located in the Town/City of _____.

This request has been placed through a Departmental Review (comments attached)

The Bureau of Right-of-Way comments concerning this request:

Administrator, Bureau of Right-of-Way: concur do not concur _____
(date) (Initials)

Comments:

* * * * *

Prior to proceeding with the: Appraisal G&C submission

It would be appreciated if this request was reviewed by members of the Commissioner's Office.

* * * * *

Assistant Director of Project Development: concur do not concur _____
(date) (Initials)

Comments:

* * * * *

Director of Project Development: concur do not concur _____
(Initials)

(date)

Comments:

* * * * *

Assistant Director of Operations: concur do not concur _____
(Initials)

(date)

Comments:

* * * * *

Director of Operations: concur do not concur _____
(Initials)

(date)

Comments:

* * * * *

Director of Aeronautics, Rail and Transit: concur do not concur _____
(Initials)

(date)

Comments:

* * * * *

Deputy Commissioner: concur do not concur _____
(Initials)

(date)

Comments:

* * * * *

Assistant Commissioner: concur do not concur _____ (Initials)

(date)

Comments:

* * * * *

Commissioner: concur do not concur _____ (Initials)

(date)

Comments:

* * * * *

Please return this file to the Administrator of the Right-of-Way Bureau after review. Attached is correspondence and related information for this request. Feel free to contact either the Property Manager or myself should you have questions or need further information.

Administrator, Bureau of Right-of-Way: After the review of all comments by the Front Office, I request the Property Management Section to proceed as follows:

(date) _____
(Initials)

Appraisal G&C submission Market Analysis _____

Comments:

Attachments

Color Legend for plans

Red Property lines, Right-of-Way lines

Red Buildings acquired

Green Land Acquired

Blue Drainage/Channel Easements

Yellow Slope Easements

Orange Temporary Construction Easements

choose color Other

EXAMPLE

LAROW- limited access right of way

RESIDENTIAL VALIDATION AND DISPLACEE DATA

FULL NAME AND ADDRESS OF OWNER/ TENANT

PROJECT: _____

STATE #: _____

PARCEL #: _____

DATE: _____

Right of Way Agent: _____

PHONE: _____

IT IS HEREBY CERTIFIED, THAT I/WE _____

am/are resident(s) at _____

and have resided at this location since _____

As An

OWNER

TENANT

I Further Certify:

I/We have a New Hampshire Driver's License # _____

Total Number of people living in household: _____

Total Number of school age children: _____

EMPLOYMENT

Person Employed

Place of Employment

Distance

Mode of Travel

FINANCIAL

Owner

Do you presently have a mortgage? _____

Approximate Value: _____

Tenant

What is your Current Rent? _____

Monthly

Utilities: _____

Yearly/Monthly

DO YOU HAVE ANY SPECIAL NEEDS OR CONCERNS THAT YOU FEEL WE SHOULD KNOW?

I/We understand that this information is being provided under oath to determine my/our eligibility for Relocation Assistance Benefits as provided under Federal and State Law.

Date: _____

Displacee: _____

Date: _____

Displacee: _____

STATE OF NEW HAMPSHIRE

COUNTY OF _____

Signed and sworn to on this the _____ day of _____, 2011, before me, the undersigned officer, by _____, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that executed the same for the purposes herein contained.

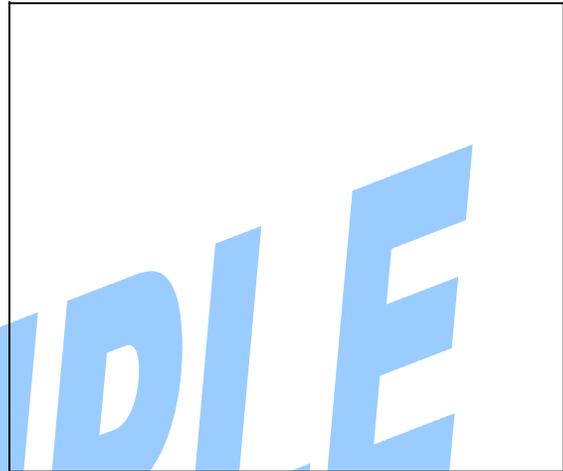
By: _____

Justice of the Peace

HOUSING INSPECTION

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Displacee Name: _____
 Property Location: _____
 State Appraised Value: \$ _____
 Listed Price: _____
 Basic Rent: \$ _____
 Utilities: \$ _____
 Total Rent: \$ _____
 Contact: _____



A. Style of Unit Colonial				
Condition	Good			
Number of Rms	Rooms			Bdrms
Lot Size				
B. Decent, Safe and Sanitary			Yes	No
Adequate SF and room count				
Hot & Cold Water				
Adequate 3 pc. Bath				
Adequate Heating System				
Adequate Sewerage				
Adequate Light & Wiring				
Adequate Egress				
Structurally Sound				
Sink & Appliance Hookups				

C. Room size and square footage				
	W	L	SF	
Living			SF	
Dining			SF	
Family			SF	
Kitchen			SF	
Bedroom 1			SF	
Bedroom 2			SF	
Bedroom 3			SF	
Bedroom 4			SF	
Other			SF	
Basement			SF	
Type Heat	Hot Water			
Electricity	Fuel			
Sewer Sys	Water			
Usable SF	Zoning			

Remarks: _____

I hereby certify that the above property was examined by me and personally inspected and found to be as stated.

 Date Right of Way Agent

Re:

- **Ninety (90) Day Notice**

Dear :

The Layout Commission met with you on , to discuss the State's offer for your property and the relocation benefits for which you may be eligible to receive under the Uniform Relocation Act.

This ninety (90) day notice is being sent to inform you that the earliest date by which you may be required to move from your property is (*date*)_____. Your actual vacating date will be determined after the State has received title to your property. I will forward you another letter specifying an actual vacating date.

During the Commission's discussions with you and based on an offer of \$ _____ dollars, the Commission indicated that you may be eligible for up to _____ (\$ _____) dollars as a replacement housing payment. The comparable unit that was used to establish this payment is located at (*Physical Address*) _____ . In addition to the replacement housing payment, you may be eligible to receive reimbursement for closing costs, increased interest and moving expenses.

Upon making final arrangements to vacate the property you occupy, it is important that you notify me immediately so the property can be serviced, secured and utility responsibility transferred to the State of New Hampshire. All personal items need to be removed from the property by the vacating date.

Please also be aware that the State's offer is based on the condition of your property at the date of the appraisal. Damage to the appraised property or removal of items of realty from the property could result in a reduction in the State's offer.

The Department will continue to assist you through this difficult period of moving. If you have any questions, you may contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

/
CERTIFIED MAIL

cc: _____, Chief Right-of-Way Agent
_____, Property Manager

Bureau of Right-of-Way
JO Morton Building - Room 100
7 Hazen Drive
PO Box 483
Concord, NH 03302-0483
Tel: (603) 271-3222
Fax: (603) 271-6915

July 14, 2011

Re:

– **Actual Vacating Notice**

Dear :

In my Ninety (90) Day Notice letter dated , I indicated you would receive a letter specifying a vacating date after the State received title to your property. Please consider this your vacating notice.

As you are aware the State acquired title to your property on . Your official vacating date is *(date)* _____ . The Department will continue to work with you and offer assistance until you have successfully moved.

It is important you notify me prior to actually vacating the premises so I can coordinate servicing the property and transfer of utilities to the State.

I would like to remind you, that you shall not remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required. If you have a question regarding an item's status, please consult with me.

Again, if you have further questions or if the Department may assist you in any way through this difficult period, please do not hesitate to contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

/

CERTIFIED MAIL

cc: _____, Property Management
_____, Chief Right-of-Way Agent

**VACATING NOTICE
WAIVER**

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Displacee's Name and Address		Address Moved To:	
Name: _____	_____	Street: _____	_____
Street: _____	_____	City: _____	_____
City: _____	_____	State: _____	_____
State: _____	Zip: _____	State: _____	Zip: _____
Telephone: _____	_____	Telephone: _____	_____

- 90 Day Notice Waiver
- 30 Day Notice Waiver

The above notice(s) have been waived for the following reasons:

- Vacant when acquired by Agency
- Displacee moved before official vacating date was established.
- Other: _____

I also certify that this waiver conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

_____	_____	_____	_____
Chief Right of Way Agent	Date	Administrator, Bureau of Right of Way	Date
_____	_____	_____	_____

**CLAIM FOR
REPLACEMENT
HOUSING PAYMENT**

Project Name: _____
 State #: _____
 Parcel #: _____

 Date: _____
 Right of Way Agent: _____

Displacee's Full Name and Address	Address Moved To:
Name: _____	Street: _____
Street: _____	City: _____
City: _____	State: _____
State: _____ Zip: _____	State: _____ Zip: _____
Telephone: _____	Telephone: _____

Item	Acquisition Compensation Total Award Amount
A. Acquisition Price or Carve-out Value	_____
B. Price of Comparable dwelling as determined by agent	_____
C. Price of Replacement dwelling purchased by displacee	_____
D. Replacement housing payment {(Lesser of B or C) minus A}	_____

Make check payable to: Name: _____	Total Payment for this Claim: \$ _____
--	--

I, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures

 Claimant's Signature Date

 Claimant's Signature Date

I certify that to the best of my knowledge that the above expenses have been incurred and are supported by the attached documentation.

 Right of Way Agent Date

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I also certify that I have examined this claim and have found it to conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

_____ Chief Right of Way Agent	_____ Date	_____ Administrator, Bureau of Right of Way	_____ Date
-----------------------------------	---------------	---	---------------

**REPLACEMENT HOUSING
INSPECTION**

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Displacee's Name: _____

Address of Inspected Property	
Street: _____	Style of House: _____
City: _____	Condition: _____
State: _____ Zip: _____	Number of rooms: _____
	Number of Bedrooms: _____

1. Appears to conform to all existing codes for buildings, plumbing, electrical and housing and occupancy codes. (Attach occupancy permit if required)
2. Has a continuing and adequate supply of potable safe water.
3. Has a kitchen with a sink equipped with hot and cold water.
4. Has an adequate heating system, which will maintain a 70-degree min. temperature.
5. Has bathroom well ventilated, lighted, and containing a lavatory basin and bathtub or shower stall, connected to an adequate sewage disposal system. Hot and cold water must be connected.
6. Has provisions for artificial lighting for each room.
7. Is structurally sound, in good repair and adequately maintained.
8. Each building used for dwelling purposes shall have a safe unobstructed means of egress leading to safe open space at ground level. In multi-dwelling buildings of 3 stories or more, the common corridor on each story must have at least two means of egress.

APPROVED

I certify that I have examined the new location described above and that the new residence meets the requirements for Decent, Safe and Sanitary housing as required by Federal regulations.

 Right of Way Agent Date

NOT APPROVED (See reasons below)

ADVANCE REPLACEMENT HOUSING

PAYMENT IN CONDEMNATION CASES

Advancement of the replacement housing payment can be accomplished, provided the following points are agreed upon by the property owner:

1. Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined by the State necessary to acquire a comparable, decent, safe, and sanitary dwelling.
2. If the amount awarded in the condemnation proceeding as the fair market value of the property acquired, plus the amount of the provisional replacement housing payment exceeds the lesser of the price paid for or the State's determined cost of a comparable dwelling, he will refund to the State, from his condemnation judgment, an amount equal to the amount of the excess. However, he shall not be required to refund more than the amount of the replacement housing payment advanced.

Reference: FHPM 7-5-4(f) 1 & 2

Displacee's Signature

STATE OF NEW HAMPSHIRE,

SS

A. D., 2011

On this, the ____ day of _____, 2011, before me, the undersigned officer, personally appeared _____, known to me to be the person whose name (s) _____ subscribed to the within instrument, and acknowledged that _____ executed the same for the purposes herein contained.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND

Justice of the Peace/Notary Public
My Commission Expires: _____

New Hampshire Department of Transportation - Bureau of Right of Way

**ADVANCED
REPLACEMENT
HOUSING PAYMENT**

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Owner's Full Name and Address	Address Moved To:
Name: _____	Street: _____
Street: _____	City: _____
City: _____	State: _____
State: _____	Zip: _____
Zip: _____	Telephone: _____
Telephone: _____	Telephone: _____

Dear

Your Right-of-Way Agent has established that your Replacement Housing Payment (RHP) eligibility is _____ (\$ _____) dollars. This amount was determined by reviewing functionally equivalent homes for sale in the market place. This functionally equivalent home value is higher than the State's offer to purchase your residential property. The RHP is additional money your right-of-way agent has determined you may need to relocate to a functionally equivalent home in your area.

	Amount
Acquisition Price (State's offer)	\$ _____
Price of Replacement House (as determined by agent)	\$ _____
Total available for RHP	\$ _____

Please be aware that your RHP may be directly affected if you are granted compensation through a negotiated settlement, the Board of Tax and Land Appeals, or subsequent legal proceedings.

For an Example. If the Board of Tax and Land Appeals were to compensate you one thousand (\$1,000.00) dollars above the State's offer, your maximum eligibility for your RHP will be reduced by one thousand (\$1,000.00) dollars.

EXAMPLE ONLY

	Amount
Acquisition Price	\$100,000.00
Awarded compensation	\$1,000.00
Adjusted RHP	\$1,000.00
Total RHP	\$ - 0 -

I/We, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures. If I/We receive any additional monies in my/our appeal to the Board of Land & Tax Appeals, I/We agree to reimburse the State of New Hampshire any advanced Replacement Housing Payment affected by my/our award. I/We also authorize you the right to deduct these amounts directly from my/our award.

Claimant's Signature

Date

Claimant's Signature

Date

EXAMPLE

INCIDENTAL CLOSING EXPENSES AND INCREASED INTEREST CLAIM FORM

Full Name and Address of Owner		Project Name: _____
Name: _____		State Project #: _____
Street: _____		Parcel #: _____
City, St, Zip: _____		Date: _____
Telephone: _____	Right of Way Agent: _____	

1. Price of Comparable	\$ _____	2. Price of Replacement Home	\$ _____
3. Old Mortgage Balance	\$ _____	4. New Mortgage Amount	\$ _____

(Principal Only)

Name of Lender: _____ Street: _____ City: _____ State: _____ Zip: _____ Telephone: _____	Estimated Charges Date Figured: _____ Good Faith Estimate	Actual Charges Date Figured: _____ Closing Settlement
Loan Origination Fees: (based on lower of old mortgage payoff or new loan minus increased interest payment, if any)		
Appraisal Fees:		
Credit Report:		
Application Fees:		
Tax Service Fees:		
Flood Certification Fees:		
Underwriting Fees:		
Attorney Fees:		
Title Insurance - Lenders (Title insurance not to exceed the price of comparable)		
Title Insurance - Borrowers (Title insurance not to exceed the price of comparable)		
Recording Fees:		
State Tax Stamp: (Pay up to price of comparable)		
Settlement or Closing Fees:		
TOTALS:		

AMOUNTS DUE UNDER THIS CLAIM

Increased Interest Payment (See attached worksheet)	Work Class Code _____	\$ _____
Closing Costs (Documentation attached)	Work Class Code _____	\$ _____
Total Amount Due:		\$ _____

I certify that all information submitted herewith or included herein is true, correct and complete, that the above named displacee has purchased a dwelling which is decent, safe and sanitary and the displacee is eligible for the payment requested.

Date: _____ Right of Way Agent: _____

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I further certify that I have examined this claim and the substantiating documentation and found it to conform to the applicable provisions of State law and operating procedures.

Date: _____ Right-of-Way Agent Supervisor: _____

Date: _____ Administrator, Bureau of Right of Way: _____

**CLAIM FOR MOVING
ALLOWANCE - RESIDENTIAL**

X Owner
 Tenant

Project Name: _____

State Project #: _____

Federal #: _____

Landfile-Parcel #: _____

Work Class Code: _____

Date: _____

Right of Way Agent: _____

Full Name and Address of Owner

Name: _____

Street: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Address Moving To

Name: _____

Street: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Controlling Dates	Date
Date claimant moved into displacement dwelling.	_____
First written offer for displacement dwelling.	_____
Title taken by State on displacement dwelling.	_____
Closing date for replacement dwelling.	_____
Move-in date - replacement dwelling.	_____

Claim Based On
 Fixed Moving Schedule See Schedule Below
 Actual Moving Expenses Plus Storage If Applicable
Amount Due Under This Claim:
 \$ _____

Make check payable to:

Name: _____

Street: _____

City: _____

State: _____ Zip: _____

Telephone: _____

Moving Payment Requested \$ _____
 Actual Storage Payments \$ _____
 Monthly Storage \$ _____ # Months: _____
 Months Covering: _____
 Utility Reconnect _____

Total Payment for This Claim \$ _____

Fixed Moving Schedule
 Occupant Owns Furniture
 Number of Areas

1	2	3	4	5	6	7	8	Each Add'l Area
\$500	\$700	\$900	\$1100	\$1300	\$1500	\$1700	\$1900	\$200

I certify that all personal property has been removed from the real property and the public project. The undersigned hereby requests payment for moving expenses in vacating the property in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes. The undersigned agrees to accept the above sum as payment in full.

Date: _____

Claimant Signature (s): _____

I certify the above facts to be true to the best of my knowledge and belief. The counted rooms were verified, personal property has been removed and payment of the amount set forth is recommended.

Date: _____

Chief Right-of-Way Agent: _____

Approved for Payment

Date: _____

Administrator, Bureau of Right of Way _____

TENANTS
CHECK LIST

Project: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

The check list below is meant only as a guide to help you understand the booklet entitled "PUBLIC HIGHWAYS AND YOUR PROPERTY".

Please put a check mark next to each category when covered by your Right of Way Agent.

MOVING COST REIMBURSEMENT (Pages 16-17)

- I Commercial Move
 {Federal Regulation 24.301}
 - * Quote must be reviewed for approval before hiring a mover

- II Self-Move
 {Federal Regulation 24.301}
 - a) Actual Moving Cost
 - * 50 mile radius
 - * Packing and unpacking
 - * Replacement insurance
 - * Utility reconnects
 - * Reasonable

 - b) Fixed Schedule Moving Cost
 {Federal Regulation 24.302}
 - * Based on room count
 - * Lump sum - you do all

COMPARABLE UNIT DETERMINATION (Pages. 17-18)

- * Functionally Equivalent
- * Adequate in size to accommodate
- * Available on private market at time of offering
- * Within financial means
- * Decent, Safe, and Sanitary and in concurrence with Local Code and Federal Regulations. The more stringent rule applies.
- * Establishing Economic Rent when tenant paying little or no rent

RENTAL ASSISTANCE (Pages. 22-23)

- * In occupancy at least 90 days preceding initiation of negotiations
- * Not to exceed \$5,250.00
- * Based on a 42 month period
- * Must occupy within One (1) year

- * Utility charges included in rent (heat, lights, water, sewer)
- * Must be in occupancy when offer to purchase property is made to owner.
- * Must "Spend to get"

DOWN PAYMENT ASSISTANCE (Pages. 23-24)

- * In occupancy at least 90 days preceding initiation of negotiations
- * Combined down payment including incidental expenses
- * Must "Spend to get"
- * Must purchase and occupy within 1 year

RELOCATION PAYMENTS ARE NOT CONSIDERED REPORTABLE AS INCOME
THEY WILL HAVE NO ADVERSE EFFECT ON (Page 29)
{Federal Regulation 24.209}

- * Social Security Eligibility
- * Welfare Eligibility
- * Income Taxes

YOUR RIGHT OF APPEAL (Page 29)

- * Appeals must be made within 90 days of determination
- * Appeal in writing to the Commissioner
- * Hearings Examiner
- * Transportation Appeals Board
- * Supreme Court

My Right of Way Agent has discussed the above check list, the 90 Day and actual Vacating Notices.

Tenant's Name

Date

Tenant's Name

Date

Re: **- Parcel No.**
Tenants – Ninety (90) Day Notice

Dear _____:

I met with you on *(date)* _____, to discuss relocation benefits for which you may be eligible to receive under the Uniform Relocation Act.

This ninety (90) day notice is being sent to inform you that the earliest date by which you may be required to move is *(date)* _____. After the State has received title to the property you occupy, I will forward you another letter specifying an actual vacating date.

The State has determined you are eligible for up to _____ (\$ _____) dollars as a rental supplement payment. The comparable unit that was used to establish this payment is located at *(Physical Address)* _____. In addition to the rental supplement payment, you may be eligible for moving costs.

Upon making final arrangements to vacate the property you occupy, it is important that you notify me immediately so the property can be serviced, secured and utility responsibility transferred to the State of New Hampshire. All personal items need to be removed from the property by the vacate date.

Please be aware you shall **not** remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required.

The Department's relocation staff will continue to assist you through this difficult period of moving. If you have any questions, you may contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

CERTIFIED MAIL

_____, Chief Right-of-Way Agent

Re: – Parcel No.
Tenants – Actual Vacating Notice

Dear _____:

In my Ninety (90) Day Notice letter dated _____, I indicated you would receive a letter specifying a vacating date after the State received title to the property you occupy. Please consider this your vacating notice.

The State acquired title to the property you occupy on _____. Your official vacating date is (*date*) _____. The Department will continue to work with you and offer assistance until you have successfully moved.

If your former landlord is holding a security deposit on your rental unit, you may request for the deposit back at this time.

Once again, I would like to remind you to notify me prior to vacating the property you occupy so the property can be serviced and secured immediately after you vacate the premises. Please check with me to determine which utilities must **not** be turned off.

I would also like to remind you that you shall not remove any realty from the property. If the property is damaged or if you remove real property, reimbursement may be required. If you have a question regarding an item's status, please consult with me.

Again, if you have further questions or if the Department may assist you in any way through this difficult period, please do not hesitate to contact me by calling (603) 271-xxxx or 271-3222.

Sincerely,

Right-of-Way Agent

CERTIFIED MAIL

cc: _____, Property Management

_____, Chief Right-of-Way Agent

**CLAIM FOR
TENANT RSP**

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Displacee's Name and Address Name: _____ Street: _____ City: _____ State: _____ Zip: _____ Telephone: _____	Comparable's Address: Street: _____ City: _____ State: _____ Zip: _____ Telephone: _____
--	--

Type of Occupancy Covered by This Claim	
<input type="checkbox"/> Dormitory/Sleeping Room	<input type="checkbox"/> Homeowner Occupant
<input type="checkbox"/> Dwelling Unit Tenant	<input type="checkbox"/> Subsequent Occupant
<input type="checkbox"/> Mobile Home Park Tenant	<input type="checkbox"/> Other: _____

<input type="checkbox"/> Computation for Claim for Rent Supplement Payment	
A. Comparable's rent amount. (Comparable's chosen by Displacee)	\$ _____
B. Comparable's rent amount. (Comparable's chosen by Agency)	\$ _____
C. Subject's current rent including utilities.	\$ _____
D. Computed amount of monthly eligibility {(lesser of A or B) minus C}	\$ _____
E. Rent supplement payment: (D x 42 months)	\$ _____

<input type="checkbox"/> Computation for Claim for Purchase Down Payment	
(Purchase down payment is equal to the lesser of F or G)	
F. Maximum amount allowed for purchase down payment. (Taken for E above)	\$ _____
G. Amount required for down payment of new dwelling.	\$ _____

Make check payable to: Name: _____	Total Payment for this Claim: \$ _____
--	--

I, the undersigned, hereby request payment for the above claim in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided by the Statutes and operating procedures

_____	_____
Claimant's Signature	Date
I certify that to the best of my knowledge that the above expenses have been incurred and are supported by the attached documentation.	
_____	_____
Right of Way Agent	Date

I certify that to the best of my knowledge no official of the New Hampshire Department of Transportation has a direct or indirect, present or contemplated personal interest in this transaction nor will derive any benefit from the payment. I also certify that I have examined this claim and have found it to conform to the applicable provisions of Federal Regulations, State law, and operating procedure of the New Hampshire Department of Transportation.

Chief Right of Way Agent

Date

Administrator, Bureau of Right of Way

Date

**BUSINESS VALIDATION
AND
DISPLACEE DATA**

PROJECT: _____

STATE #: _____

PARCEL #: _____

DATE: _____

Right-of-Way Agent: _____

OWNER OF RECORD

OWNER OF BUSINESS-FARM-NPO

Name: _____	Name: _____
Address: _____	Address: _____
City, State, _____	City, State, _____
Zip: _____	Zip: _____
Telephone #: _____	Telephone #: _____

STATUS OF BUSINESS

NATURE OF BUSINESS

- Sole proprietorship
- Corporation
- Partnership
- Non Profit Organization

PERTINENT INFORMATION

Do you presently have a mortgage	Approximate balance
Are you a tenant _____	Monthly rental payment _____
Do you have a lease _____	Length/Term of Lease _____
How long at your present location _____	
How many people do you employ _____	

Special considerations: _____

I/WE certify that the above information provided by me is true to the best of my/our knowledge.

Date

Displacee

Date

Displacee

CLAIM FOR BUSINESS MOVING EXPENSES

Project Name: _____	
State Project #: _____	
Parcel #: _____	
Date: _____	
Right of Way Agent: _____	_____

Full Name Address of Business, Farm, Non-profit Organization Being Displaced:

Name: _____
 Street: _____
 City: _____
 State: _____ Zip: _____
 Telephone: _____

Address Moved to:

Name: _____
 Street: _____
 City: _____
 State: _____ Zip: _____

Make check payable to:

Name: _____

Make check in the amount of:

\$ _____

Amount of Claim: Actual Self Move

Searching Expense: \$ _____
 Storage if Necessary
 # of Months: _____ Per Month \$ _____
 Storage Total: _____
 \$ _____

Payment of This Claim is Requested in the Amount of \$ _____

The undersigned hereby requests payment for moving expenses in vacating the property in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes.

Date: _____ Claimant Signature: _____

Date: _____ Claimant Signature: _____

I certify that to the best of my knowledge the above expenses have been incurred and are supported by the attached documentation.

Date: _____ Right-of-Way Agent: _____

Date: _____ Chief Right-of-Way Agent: _____

Date: _____ Administrator, Bureau of Right of Way: _____

CLAIM FOR REESTABLISHMENT PAYMENT

- Partial Payment**
- Payment in Full**

Project Name: _____
 State Project #: _____
 Parcel #: _____
 Date: _____
 Right-of-Way Agent: _____

Full Name and Address of Business, Farm, Non-profit
 Organization Being Displaced:
 Name: _____
 Street: _____
 City: _____
 State: _____ Zip: _____
 Telephone: _____
 Contact: _____

Address Moved to:
 Name: _____
 Street: _____
 City: _____
 State: _____ Zip: _____
 Telephone: _____
 Contact: _____

Make check payable to:

Make check in the amount of:

Name: _____

\$ _____

Reimbursable Item	Amount	Reimbursable Item	Amount
A. To Meet Code	_____	G. Professional Services	_____
B. Modify to Accommodate.	_____	H. Increased Operating Expense	_____
C. Signage	_____	I. Other	_____
D. Redecoration	_____		
E. Licenses, Fees & Permits	_____	Total:	_____
F. Advertising	_____		

The undersigned hereby requests payment of Reestablishment expenses in accordance with the rules and regulations of the New Hampshire Department of Transportation as provided in the Statutes. The undersigned agrees to accept the sum of \$ _____ in full payment of Reestablishment expenses based on the above items.

Date: _____

Claimant Signature: _____

Date: _____

Claimant Signature: _____

I certify that to the best of my knowledge the above expenses have been incurred and are supported by the attached documentation.

Date: _____

Right-of-Way Agent: _____

Date: _____

Chief Right-of-Way Agent: _____

Date: _____

Administrator, Bureau of Right of Way: _____

**CLAIM FOR IN LIEU OF
REESTABLISHMENT PAYMENT
BUSINESS OR FARM**

- Business**
 Farm

Project Name: _____
 State Project #: _____
 Parcel #: _____
 Date: _____
 Right-of-Way Agent: _____

Full Name and Address of Business or Farm: _____ Address Moved to: _____
 Name: _____ Name: _____
 Street: _____ Street: _____
 City: _____ City: _____
 State: _____ Zip: _____ State: _____ Zip: _____
 Telephone: _____ Telephone: _____

Make check payable to: _____ **Make check in the amount of:** _____
 Name: _____ \$ _____

Net Earnings Based on the Two Years Prior to Acquisition
(See attached documentation)

_____	_____						
Year		Year					
		0					
\$ _____	+	\$ _____	=	\$ _____	÷ 2 =	\$ _____	

**Payment of this claim
is requested in the amount of:** _____

I certify that I am the owner or authorized representative of the business or farm operation named above; that no other claim for reimbursement or compensation for payment of moving expense or in lieu of moving expenses has been submitted, or payment received, or will be accepted from any other source, by me on behalf of said business or farm operation. Also, all personal property has been moved from the real property and the public project. I understand this claim for payment is based on information previously submitted to the State and the attached documentation. I also certify that all information is true, correct and complete and is part of this claim.

Date: _____ Claimant Signature/s: _____
 Title: _____
 Title: _____

I certify that to the best of my knowledge the above information is correct based on the supporting attached documentation.

Date: _____ Right-of-Way Agent: _____

I certify that I have examined this claim, the substantiating documentation and found it to conform to the applicable provisions of State law and operating procedures of the New Hampshire Department of Transportation.

**CLAIM FOR FIXED
PAYMENT
NON-PROFIT
ORGANIZATION**

Date: _____ Chief Right-of-Way Agent: _____
Approved for Payment: _____

Date: _____ Administrator, Bureau of Right of
Way: _____

Project Name: _____
State Project #: _____
Parcel #: _____
Date: _____
Right-of-Way Agent: _____

Full Name and Address of Non-profit Organization:	Address Moved to:
Name: _____	Street: _____
Street: _____	City: _____
City: _____	State: _____
State: _____ Zip: _____	Zip: _____
Telephone: _____	Telephone: _____
Contact: _____	Contact: _____

Make check payable to: _____ **Make check in the amount of:** \$ _____

Name: _____

Annual Gross Revenue Less Administrative Expense for the Two Twelve Month Periods Prior to Acquisition
(See attached documentation)

\$ _____	Less	\$ _____	= \$ _____
Gross Revenue		Admin. Expense	
\$ _____	Less	\$ _____	
Gross Revenue		Total Gross Revenue	= \$ _____ ÷ 2 = \$ _____

I certify that I am the owner or authorized representative of the business or farm operation named above; that no other claim for reimbursement or compensation for payment of moving expense or in lieu of moving expenses has been submitted, or payment received, or will be accepted from any other source, by me on behalf of said business or farm operation. Also, all personal property has been moved from the real property and the public project. I understand this claim for payment is based on information previously submitted to the State and the attached documentation. I also certify that all information is true, correct and complete and is part of this claim.

Date: _____ Claimant Signature/s: _____
Title: _____
Title: _____

I certify that to the best of my knowledge the above expenses have been incurred and are supported by the attached documentation.

Date: _____ Right-of-Way Agent: _____

I certify that I have examined this claim, the substantiating documentation and found it to conform to the applicable provisions of State law and operating procedures of the New Hampshire Department of Transportation.

Date: _____ Chief Right-of-Way Agent: _____
Approved for Payment:

Date: _____ Administrator, Bureau of Right of
Way: _____

EXAMPLE

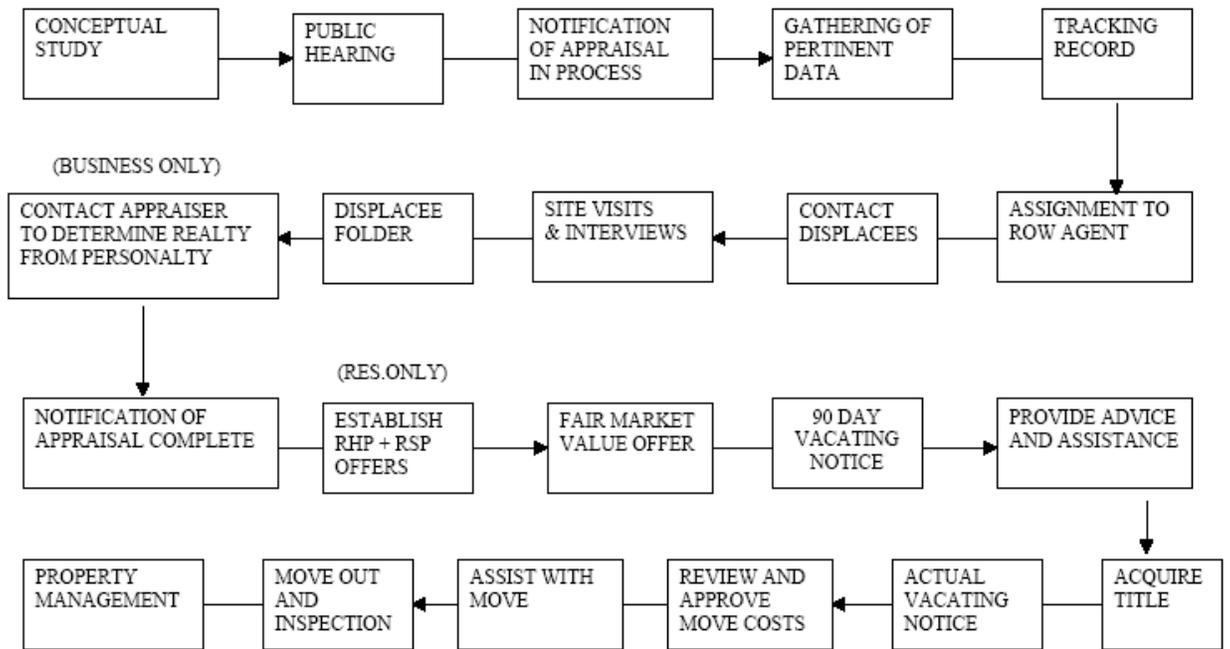
McLure
4/2/98

GOVERNOR AND COUNCIL AGENDA

April 1, 1998

- Approved Item #72 Income and Expenditures Increase Authorization - Fuel Dist
Ltr. dated February 2, 1998 (\$15,000)
- Approved Item #73 Transfer Funds Between Classes & Turnpike Earnings
Ltr. dated February 20, 1998 (\$350,900)
- Approved Item #74 Nashua-Hudson, 10625-B, Cont. Approval, Sagamore Bridge
Ltr. dated March 12, 1998 (R.S. Audley-#50032)
- Approved Item #75 Albany, 11971-B, Cont. Approval, Kancamagus Hwy. Walls
Ltr. dated March 9, 1998 (Busby Const.-#41836)
- Approved Item #76 Special Statewide Bridge Design Agreement, 12936
Ltr. dated February 25, 1998 (McFarland-Johnson-#23114)
- Approved Item #77 Haverhill-Bath, 10340, Statewide Historic RR Context Study
Ltr. dated February 25, 1998 (R. Stuart Wallace-#45375)
- Approved Item #78 Agreement Approval, Transit Coordination Project
Ltr. dated March 3, 1998 (COAST-#22754)
- Approved Item #79 Special Statewide, 12935, Bridge Design Agreement
Ltr. dated February 25, 1998 (Clough, Harbour-#01598)
- Approved Item #80 Chesterfield, NH-Brattleboro, VT, 11999, NH Rte. 9 Bridge
Ltr. dated March 16, 1998 (State of VT)
- Approved Item #81 Conway, Leasing of State Owned Railroad Land
Ltr. dated February 26, 1998 (Lawrence Locke)
- Approved Item #82 Windham, Sale of State Owned Property
Ltr. dated March 10, 1998 (Edward McSweeney)
- Approved Item #83 Fremont, Authorization for RR Quit Claim Release
Ltr. dated March 2, 1998
- Approved Item #84 Merrimack, Disposal of Old Route 3 Highway Easement
Ltr. dated March 16, 1998 (Nash, Watson)

RELOCATION FLOW CHART





THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

2/20/98

LEON S. KENISON
COMMISSIONER

Bureau of Right-of-Way

March 4, 1998

Her Excellency, Jeanne Shaheen, Governor
and the Honorable Council
State House
Concord, New Hampshire 03301

Re: Blanket Approval for Contemplated Awards
for Amounts less than \$5,000

REQUESTED RESOLUTION

AUTHORIZED, the Commissioner of the New Hampshire Department of Transportation, or designee, to approve the payment of contemplated award submittals in amounts less than five-thousand (\$5,000.00) dollars.

EXPLANATION

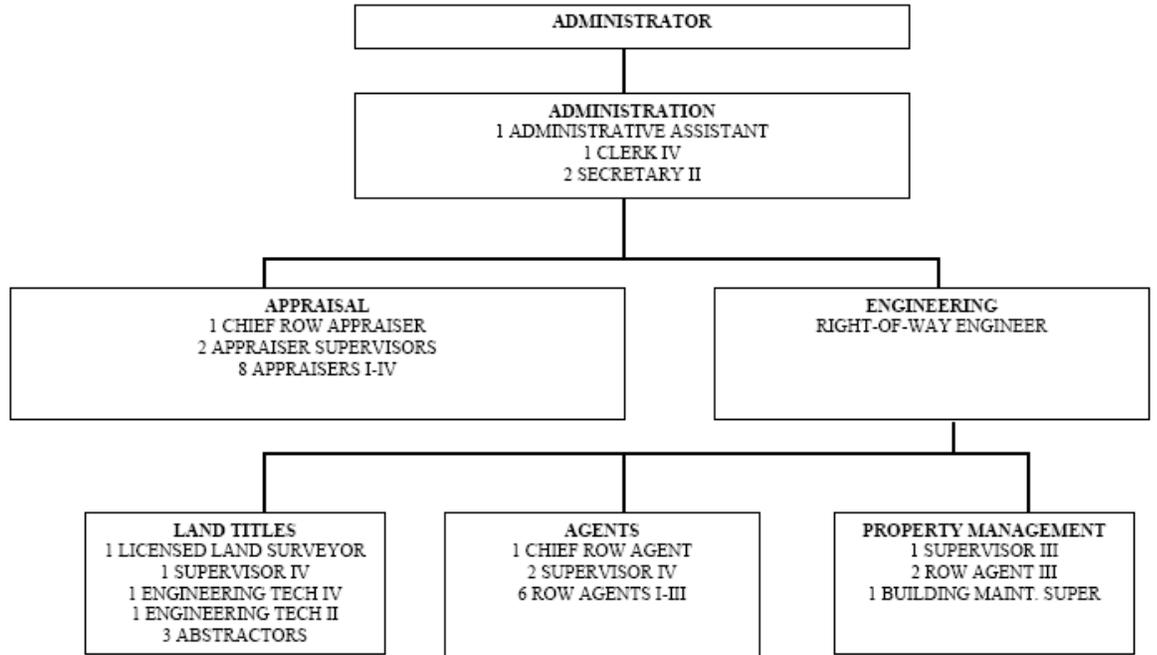
The Department of Transportation acquires property and property rights that are needed to clear the right-of-way for the construction of transportation improvement projects. In addition, relocation assistance benefits are provided to those individuals, businesses, or non-profit organizations that are displaced as a result of transportation improvement projects. These acquisitions and benefits are provided in accordance with RSA 230 and RSA 231 and are subsequently submitted to the Governor and Executive Council for final authorization of each payment as listed in the Contemplated Awards compiled by the Department. The present approval process causes a delay in payment of between six (6) to eight (8) weeks before the owner or claimant is able to receive their payment.

Many of these payments are either to property owners as compensation for the impact of the project, or, to moving companies, estimators, storage companies, displacees, etc. as reimbursement for relocation assistance benefits for which they are eligible. These companies are often smaller privately owned businesses that may experience financial difficulty due to the delay in payment caused by the current approval process. In addition, owners that choose to perform their move themselves must now wait the six (6) to eight (8) weeks before they can receive reimbursement for their work efforts for relocating their personal property.

As part of Department's Quality Improvement efforts, the Right-of-Way Award process was studied. This review determined that over seventy-five (75%) percent of the contemplated awards submitted to the Governor and Executive Council for approval were in amounts less than five-thousand (\$5,000.00) dollars. It is felt that the present process for approval of the submitted contemplated awards causes undue delay in providing payments and benefits to those affected by the Department's transportation improvement projects. In addition, it requires additional time and work effort by the Department's staff, thereby delaying the acquisition and relocation processes. This in turn can delay the advertising and construction of the project since work cannot occur until the right-of-way is cleared.

JOHN CLARKE BLDG. 1 HAZEN DRIVE, P.O. BOX 483 - CONCORD, N.H. 03302-0483
TELEPHONE: 603-271-3734 FAX: 603-271-3911 TDD ACCESS: RELAY NH 1-800-735-2964

RIGHT OF WAY BUREAU
ORGANIZATION CHART



NONDISCRIMINATION SURVEY

To all Public Hearing Attendees: This voluntary survey is being collected by the New Hampshire Department of Transportation in order to comply with Title VI of the Civil Rights Act of 1964, related statutes and Executive Orders with regard to "Nondiscrimination in Federally Assisted Programs." We ask that you take a few moments to complete the following questions. The demographic data that you provide will enable the Department to identify impacted residents and communities affected by the Federal-aid Highway Program.

Male Female

YES NO

Is your household income less than \$21,200 per year?

Are you disabled?

Are you over the age of 62?

Do you have difficulty speaking English?

Racial/Ethnic Data: Please identify yourself with one of the racial/ethnic groups below:

White (not of Hispanic origin) Native American

Black (not of Hispanic origin) Hispanic

Asian or Pacific Islander Other

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Do you have difficulty speaking English?

Racial/Ethnic Data: Please identify yourself with one of the racial/ethnic groups below:

White (not of Hispanic origin) Native American

Black (not of Hispanic origin) Hispanic

Asian or Pacific Islander Other

OWNERS 180 DAY

CHECKLIST

Project Name: _____
State #: _____
Parcel #: _____
Date: _____
Right of Way Agent: _____

The checklist below is meant only as a guide to help you understand the booklet entitled "PUBLIC HIGHWAYS AND YOUR PROPERTY".

Please put a check mark next to each category when covered by your right of Way Agent.

MOVING COST REIMBURSEMENT (Page 16-17)

- I Commercial Move
{Federal Regulation 24.301}
 - * Quote must be reviewed for approval before hiring a mover

- II Self-Move
{Federal Regulation 24.301}
 - a) Actual Moving Cost
 - * 50 mile radius
 - * Packing and unpacking
 - * Replacement insurance
 - * Utility reconnects
 - * Reasonable

 - b) Fixed Schedule Moving Cost
{Federal Regulation 24.302}
 - * Based on room count
 - * Lump sum - you do all

REPLACEMENT HOUSING DETERMINATION

{Federal Regulation 24.205, 24.401, 24.403}

- * Page 17 - Functionally equivalent
- * Page 17 - Dwelling adequate in size to accommodate
- * Page 17 - Available on private market at time of offer
- * Page 18 - Decent, Safe and Sanitary and in concurrence with Local Code and Federal Regulations. The more stringent rule applies.

- * Page 20 - Must occupy within one (1) year
- * Page 21 - "Spend to get"

INCIDENTAL EXPENSES (Page 20)
{Federal Regulation 24.401(e)}

- a) Presently have a mortgage
 - * Certain closing costs
 - * Usual and ordinary charges
 - * Required by bank
 - * Points based on existing mortgage
 - * Tax Stamps based on comparable

- b) Without a current mortgage
 - * Legal
 - * Recording

INCREASED INTEREST PAYMENTS (Page 21)
{Federal Regulation 24.401(d)}

- * Based on existing unpaid mortgage or your new mortgage amount (whichever is less)
- * Based on remaining term of existing mortgage or the term of your new mortgage (whichever is shorter)
- * Based on prevailing rates currently being charged

RELOCATION PAYMENTS ARE NOT CONSIDERED REPORTABLE AS INCOME
THEY WILL HAVE NO ADVERSE EFFECT ON (Page 28)
{Federal Regulation 24.209}

- * Social Security Eligibility
- * Welfare Eligibility
- * Income Taxes

YOUR RIGHT OF APPEAL (Page 29)

- * Appeals must be made within 90 days of determination
- * Appeal in writing to the Commissioner
- * Hearings Examiner
- * Transportation Appeals Board
- * Supreme Court

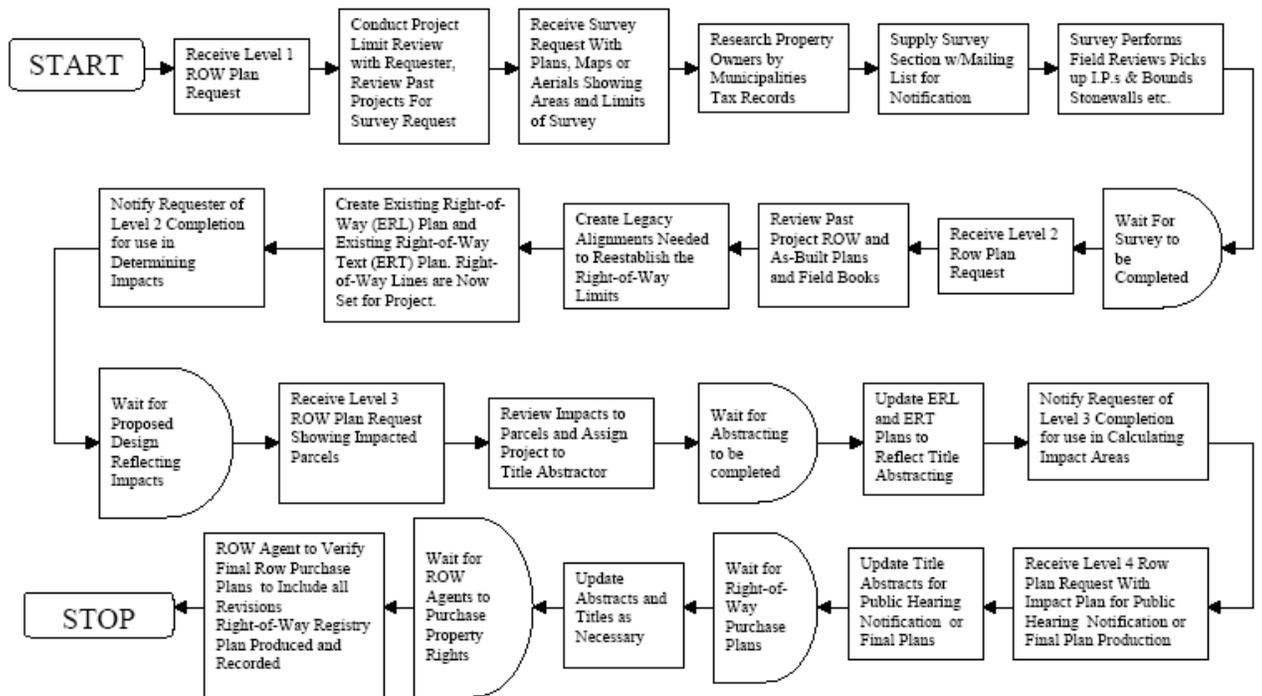
My Right of Way Agent has discussed the above checklist, the 90-Day and actual vacating notices.

Owner's Name

Date

Owner's Name

Date



R/W Acquired/ Possession Not Available

The Department of Transportation has legal title to the following properties, however, the structures and areas indicated on the Right-of-Way Plans are reserved until the indicated dated.

Parcels	Name	Reserve Date

R/W Acquired/Residential Structures Still Occupied

The Department of Transportation has legal title to the following properties, however, the residents have not vacated.

Parcels	Name	Scheduled Vacates

The New Hampshire Department of Transportation affirms that it is in the public interest to proceed with construction of this project. The cause for the delay in clearing the R/W, and the measures taken to protect the rights of those temporarily remaining on the project are as follows:

A Coast Guard permit is is not necessary on this project.

A Corps of Engineers permit is is not necessary on this project.

A State Wetlands Bureau permit is is not necessary on this project. Permit No. ____

was approved as a Nationwide on _____

was approved as an individual project on _____

All families and individuals relocated from this project have been/will be offered decent, safe and sanitary housing, as defined in 49 CFR Part 24. All parties receiving replacement housing payments will be/have been relocated to DS&S housing. Relocation procedures used on this project conform to the standards established by Federal regulations.

 Administrator Bureau of Right-of-Way

 Date

Assistant Administrator, Bureau of Right-of-Way

RIGHT-OF-WAY CERTIFICATE

For

Municipally Managed Projects

Project Name: _____

State Project No. _____

Federal Project No: _____

[] All work within existing rights-of-way and no additional acquisitions were necessary for this project or;

All acquisitions and easements acquired as part of this project are listed below:

Total number of parcels impacted: _____

Number of acquisitions acquired by donation: _____

Number of acquisitions acquired by permanent/temporary easement: _____

Number of Acquisitions acquired by fee: _____

Number of Acquisitions acquired via condemnation: _____

Total Cost of property rights acquired \$ _____

Were relocation claims paid as part of this project: [] YES [] NO

If yes, complete relocation information on Page 2.

Relocation Information

Residential

	Owners	+	Tenants	=	Total
Number of Displacees	_____		_____		_____
Number of Relocation Housing Payments	_____		Total Spent \$ _____		
Number of Rent Supplement Payments	_____		Total Spent \$ _____		
Number of Moving Payments	Actual _____		Scheduled _____		Total Spent \$ _____

Business

	Owners	+	Tenants	=	Total
Number of Displacees	_____		_____		_____
Number of Moving Payments	_____		Total Spent \$ _____		
Number of RE-establish Payments	_____		Total Spent \$ _____		
Number of In Lieu of	_____		Total Spent \$ _____		
Number of Misc. Monies (i.e. fences, lights, signs, etc.)	_____		Total Spent \$ _____		

The City/Town of _____, State of New Hampshire hereby certifies the right to occupy and use all the right-of-way necessary for the above-referenced project has been acquired in accordance with the Uniform Act.

 Town/City Manager
 Chairman of Selectmen

Date

**RELOCATION
CLAIM
JUSTIFICATION**

Project Name: _____
 State #: _____
 Parcel #: _____
 Date: _____
 Right of Way Agent: _____

Name and Address		New Address (if applicable)	
Name:	_____		N/A
Street:	_____	Street:	_____
City:	_____	City:	_____
State:	_____ Zip: _____	State:	_____ Zip: _____
Telephone:	_____	Telephone:	_____

In accordance with Federal Regulation 49 CFR 24:301 (e) and (g) (3) a reimbursement in the amount of \$ based on the lower of 2 estimates is being requested by for the relocation of their fence, currently located in the States Right of Way, to another location out of the Right of Way and proposed work area on their property located at Road in Town.

EXAMPLE

Right-of-Way Agent: _____