

## **PART 2 CHAPTER 23**

# **ACQUISITION AND RESTORATION COUNCIL (ARC) COORDINATION**

### **TABLE OF CONTENTS**

23.1	OVERVIEW.....	23-1
23.1.1	Programs, Statutes, and Policies .....	23-2
23.1.1.1	Land Acquisition Funds .....	23-2
23.1.1.2	Specific Programs.....	23-2
23.1.1.3	Statutory Authority .....	23-3
23.1.1.4	Policies .....	23-4
23.2	PROCEDURE .....	23-6
23.2.1	Identification of State-Owned Conservation Lands and Applicability ...	23-6
23.2.2	Coordination .....	23-6
23.2.2.1	Coordination Between FDOT and the Land Management Agency....	23-6
23.2.2.2	Coordination between FDOT, Land Management Agency, and Bureau of Public Lands Administration .....	23-7
23.2.2.3	District Coordinates with OEM Director .....	23-8
23.2.2.4	Mitigation .....	23-8
23.2.3	Upland Easement Application, ARC Agenda Item Package and Memorandum of Agreement.....	23-8
23.2.3.1	ARC Agenda Item Package.....	23-8
23.2.3.1.1	Upland Easement Application.....	23-9

23.2.3.1.2	Supplemental Information for the Upland Easement Application	23-10
23.2.3.1.3	State Lands Impact Report	23-11
23.2.3.2	Scheduling ARC Meeting Agenda Item	23-11
23.2.3.3	ARC Review of ARC Agenda Item Package	23-12
23.2.3.4	ARC Determination and Development of the MOA	23-12
23.2.3.5	Agencies sign MOA; FDEP Prepares Easement Document for FDOT Approval	23-12
23.3	ENVIRONMENTAL DOCUMENTATION	23-13
23.4	OTHER APPLICABLE LAWS AND REGULATIONS	23-14
23.5	REFERENCES	23-15
23.6	FORMS	23-15

## LIST OF FIGURES

Figure 23-1	FDOT Coordination Process: Acquisition and Restoration Council (ARC)	23-16
-------------	--	-------

## PART 2 CHAPTER 23

# ACQUISITION AND RESTORATION COUNCIL (ARC) COORDINATION

### 23.1 OVERVIEW

Pursuant to **23 United States Code (U.S.C.) 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, the Florida Department of Transportation (FDOT) has assumed and Federal Highway Administration (FHWA) has assigned its responsibilities under the **National Environmental Policy Act (NEPA)** for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS (**NEPA** Assignment). In general, FDOT's assumption includes all highway projects in Florida which source of federal funding comes from FHWA or which constitute a federal action through FHWA. **NEPA** Assignment includes responsibility for environmental review, interagency consultation and other activities pertaining to the review or approval of **NEPA** actions. Consistent with the law and the MOU, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

This chapter provides guidance for projects requiring the use of state-owned upland conservation lands which are managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation. These lands are held by the Board of Trustees of the Internal Improvement Trust Fund (TIITF), which is also referred to as the Board of Trustees (BOT).

The TIITF is responsible for the acquisition, administration, management, control, supervision, conservation, protection and disposition of all land owned by the state or any of its agencies, departments, boards or commissions with specific exclusions provided in **Section 253.03, Florida Statutes (F.S.)**, such as land held for transportation facilities, transportation corridors, and canal rights of ways.

Administratively supported by the Florida Department of Environmental Protection (FDEP), the Acquisition and Restoration Council (ARC) administers the review and approval of management plans and land uses for all state-owned conservation lands, which includes overseeing the process of review of acquisition of interests (i.e. easements) on these lands and recommending approvals to the BOT. This includes acting on FDOT's applications for easements on such lands.

To acquire an upland interest in state-owned conservation lands, the District will need to follow the procedure outlined in this chapter. State-owned conservation lands may include uplands or sovereignty submerged lands. Sovereignty submerged lands, sometimes referred to as sovereign submerged lands, are those lands beneath navigable freshwater

or tidally-influenced waters for which Florida acquired title in 1845 by virtue of statehood and which have not been conveyed out of state ownership. This chapter only addresses use of upland state-owned conservation lands. Use of state-owned submerged lands are addressed in [Part 1, Chapter 12, Environmental Permits](#).

## **23.1.1 Programs, Statutes, and Policies**

### **23.1.1.1 Land Acquisition Funds**

In 1963, the State of Florida initiated land acquisition programs, which established funds to purchase land for both recreation and conservation use. The TIITF is responsible for purchasing these lands under the various acquisition programs.

#### **23.1.1.2 Specific Programs**

In addition to TIITF owned conservation land, the following programs were developed for land acquired either directly or with matching state lands conservation program funds, and are subject to the provisions described in this Chapter:

- Land Acquisition Trust Fund (LATF)
- Environmentally Endangered Lands (EEL)
- Conservation and Recreation Lands (CARL)
- Save our Coast (SOC)
- Save Our Rivers (SOR)
- Preservation 2000 (P-2000)
- Florida Communities Trust (FCT)
- Florida Forever (FF)

Lands acquired under these programs may be individually managed by one of several state resource agencies or their associated offices, or local governments with programs using state conservation land funds, such as the Miami-Dade County EEL Program, which have established conservation areas using state conservation funds; examples of State Land Management agencies include:

- FDEP
  - Office of Resilience and Coastal Protection

- Division of Recreation and Parks
- Florida Department of State
  - Division of Historical Resources (DHR)
- Department of Agriculture and Consumer Services (DACS)
  - Florida Forest Service (FFS)
- Florida Fish and Wildlife Conservation Commission (FWC)
- Water Management Districts

### 23.1.1.3 Statutory Authority

- **Section 253.001, F.S.**, reaffirms the BOT's existence and its duty to hold lands in trust for the use and benefit of the people of the state pursuant to the ***Florida Constitution***.
- **Section 253.02, F.S.**, establishes a board of four trustees, consisting of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, to manage the lands and administer the funds associated with the sale and management of the lands. This statute authorizes the BOT to grant easements on state-owned conservation lands for electric transmission and distribution facilities, and to set up a provision for fee simple title exchange to manage impacts. This statute was the basis for BOT developing its policy for all linear facilities, which includes transportation projects.
- **Section 259.035, F.S.**, created the ARC, an entity that maintains review and advisory authority over lands designated as conservation land and/or land acquired under the land acquisition programs described above. The ARC is comprised of 10 voting members, as listed:
  - Four (4) appointees from the Governor of which three (3) shall be from related scientific disciplines and one shall have specific land management experience;
  - One (1) appointee from Executive Director of FWC;
  - One (1) appointee from Commissioner of DACS;
  - Secretary of the FDEP (or designee);
  - Director of the FFS (or designee);

- Director of the DHR (or designee);
- Executive Director of the FWC (or designee).

The statute also defines the FDEP staff as primary support. The ARC oversees the evaluation, selection and ranking of state land acquisition projects on the Florida Forever priority list. In addition, the ARC administers the review and approval of management plans and land uses for state-owned conservation lands.

- **Section 253.77, F.S.**, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the TIITF under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing proposed use.

#### 23.1.1.4 Policies

The following policies were established by the TIITF to provide criteria by which an easement can be granted to linear facilities (such as FDOT roadway corridors) as authorized under **Section 253.02, F.S.**, and to address conditions in which the TIITF can impose minimization or mitigation of adverse impacts to state-owned conservation lands originally established by land acquisition programs listed in [Section 23.1.1.2](#). These policies have been further codified in **Chapter 18-2, Florida Administrative Code (F.A.C.) – Management of Uplands Vested in the Board of Trustees**.

The **Policy for Incompatible Use of Natural Resource Lands** approved by the TIITF on August 9, 1988, applies to linear facilities including public transportation corridors. This policy describes considerations taken by the TIITF in authorizing use of state-owned conservation lands. It describes conditions the TIITF may impose to minimize or mitigate unavoidable adverse impacts to the use of the natural resource and public enjoyment of the use of such lands, including requiring the acquisition of mitigation lands adjacent to or within the boundaries of the affected natural resources. In exchange for such easements **Section 253.02(2)(b)4, F.S.**, provides that the applicant shall provide additional compensation by vesting fee simple title in the TIITF to other available uplands that are 1.5 times the size of the easement acquired by the applicant. Parcels acquired on behalf of TIITF must have an economic, ecological, and recreational value that is at least equivalent to the value of the lands under the proposed easement. Priority for replacement uplands shall be given to parcels identified as inholdings and additions to public lands and land on a Florida Forever land acquisition list by the Land Management Agency of the affected natural resource.

Also, if the use of the land is to be located on state forests, parks, EEL, CARL, LATF, or other state natural resource lands, it must provide a “net positive benefit” to the particular lands on which the use will be located; and if the use is to be located on EEL lands, it

must be in strict accord with the public purpose for which the land was acquired. “Net positive benefit” is defined as follows:

...means any effective action or transaction which promotes the overall characteristics of a particular parcel of natural resource lands. It is compensation over and above the market value of the affected parcel to offset any requested use or activity which would preclude or affect, in whole or in part, current or future uses of the natural resource lands. Net positive benefit shall not be solely monetary compensation but shall include mitigation and other consideration related to environmental or management development or restoration that produces a new or modified environment that is more productive or is ecologically more valuable.

The policy, ***Use of Natural Resource Lands by Linear Facilities As Approved by The Board of Trustees of the Internal Improvement Trust Fund on January 23, 1996*** describes measures to be taken when there is no practicable alternative to the use of the land by minimizing adverse impacts to natural resource lands where applicable and providing mitigation.

For mitigation, the policy requires the applicant pay the TIITF an amount not to exceed fair market value of the interest acquired in the parcel on which the linear facility and related appurtenances will be located. In addition to the amount for the land, the applicant must also provide the managing agency that measure of additional money, land, or services necessary to offset the actual adverse impacts reasonably expected to be caused by the construction, operation, and maintenance of the linear facility and related appurtenances. Such impact compensation will be calculated from the land managing agency's timely presentation of documented costs which will result from the impacts of the proposed project.

Generally, the lands purchased under the Incompatible Use policy do not substitute for additional compensation under the Linear Facilities policy, and FDOT will have to provide additional compensation to the Land Management Agency, as well as a “net positive benefit” as defined in subsection ***18-2.017(31), F.A.C.***, for an easement across state land which is managed for the conservation and protection of natural resources under the Incompatible Use policy. The amount paid by the FDOT for the additional compensation will be 1-2 times the appraised value of the impacted lands. Note however; avoidance and minimization of impacts is coordinated by the District with the Land Management Agency before application to the TIITF.

## **23.2 PROCEDURE**

### **23.2.1 Identification of State-Owned Conservation Lands and Applicability**

The District should identify potential use of state-owned conservation lands early in the development and environmental review of a project, regardless of the type of Environmental Document being prepared and regardless of whether it requires a federal or state Environmental Document.

These lands are typically identified using the Area of Interest (AOI) tool in the Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) located under Special Designations in the Conservation tab and/or the Florida Natural Areas Inventory Land within the Recreation Data layer. District coordination with the Land Management Agency or the FDEP Bureau of Public Land Administration (BPLA) is appropriate to confirm that the land in question has been acquired utilizing the acquisition program(s) listed in [Section 23.1.1.2](#) or is currently designated as TITF-owned conservation land.

These lands typically function as conservation areas, recreation areas, parks, and wildlife refuges. Other environmental regulations may apply to the impacted state-owned conservation land, which must be addressed during the project study. These other laws/regulations are further discussed in [Section 23.4](#).

The District is expected to keep OEM informed of potential use of state-owned conservation lands and its intent to consult with the Land Management Agency at the local and headquarters levels and the ARC (through coordination with the FDEP). The District should conduct early coordination with the appropriate Land Management Agency to confirm that state-owned conservation land potentially impacted by a project was originally acquired through the acquisition programs listed in [Section 23.1.1.2](#), or it is designated as a conservation land by the TITF and document this coordination in the project file. If the lands are anticipated to be impacted, and are subject to review by the BOT, additional written coordination will be required and documented in the project file as described in [Section 23.2.2.1](#). Additionally, when these lands are within the project study area, the District should describe this in the Environmental Document, including the presence of these lands, the level of involvement and results of associated coordination.

### **23.2.2 Coordination**

#### **23.2.2.1 Coordination Between FDOT and the Land Management Agency**

If during the early stages of the transportation project, it is determined that the FDOT will directly impact state-owned conservation lands, the District should coordinate further with the Land Management Agency throughout the Project Development and Environment

(PD&E) and Design phases, and go through the process of evaluating and documenting avoidance, minimization, and mitigation considerations to achieve "no net harm" to the state-owned conservation land. This coordination process is provided in [Figure 23-1](#). Depending on the project and complexity of involvement with the state-owned conservation land, the time needed to coordinate with the Land Management Agency may vary significantly. Following initial communication with the Land Management Agency, if warranted, the District prepares correspondence with a detailed summary for consideration by the Land Management Agency, which includes a description of coordination conducted, a description of anticipated impacts and justification and a summary of the avoidance, minimization and mitigating considerations which the Land Management Agency may use in crafting a letter of no objection and/or determination of net positive benefit.

Ultimately, an official letter from the Land Management Agency to the District should be obtained which summarizes the steps taken to achieve "no objection" to the state-owned conservation land. Proposed mitigation measures to obtain a "net positive benefit" determination by the Land Management Agency will vary depending on the property, its use, and the potential unavoidable impact. These should be negotiated and may include financial contribution, additional right of way acquisition or physical enhancement of property features, appropriate to offset or restore the impacted portions of the land. The District should also coordinate with appropriate FDOT functional area representatives: for example, District Right of Way Office or Office of the General Counsel, in establishing appropriate proposed mitigation measures.

### **23.2.2.2 Coordination between FDOT, Land Management Agency, and Bureau of Public Lands Administration**

The FDEP Division of State Lands (DSL), BPLA administers the application process for obtaining easements on state conservation lands. Upon initiation of coordination with the Land Management Agency, the District should also contact the BPLA to coordinate additional steps needed to obtain an easement to utilize these lands.

Minimally, upon receipt of a letter from the appropriate Land Management Agency, the District will prepare an **Upland Easement Application** and include supplemental information ([Section 23.2.3.1.2](#)). The Land Management Agency or the BPLA provides the narrative required in the **Upland Easement Application**. In cases of larger impacts to state-owned conservation lands, additional information to the **Upland Easement Application** may be provided in a **State Lands Impact Report (SLIR)**. See [Section 23.2.3.1.3](#). The BPLA reviews the package for completeness and when complete, will prepare an item for presentation at a regularly scheduled ARC meeting. The contact information for the FDEP office which handles impacts to state-owned conservation lands is provided as follows:

Bureau Chief, Bureau of Public Lands Administration  
Department of Environmental Protection  
3900 Commonwealth Boulevard, MS. 100  
Tallahassee, Florida 32399-3000

### **23.2.2.3 District Coordinates with OEM Director**

The District should communicate with the OEM Director regarding the anticipated impact to state-owned conservation lands, and the need to fulfill ***Upland Easement Application*** requirements. This communication may be accomplished through the District's assigned OEM Project Delivery Coordinator (PDC). OEM will inform FDOT's Office of General Counsel (OGC) in Central Office as appropriate.

### **23.2.2.4 Mitigation**

The District should coordinate with the Land Management Agency and BPLA as appropriate and determine potential impacts to the state-owned conservation land and measures to achieve "net positive benefit" through the avoidance, minimization, and/or development of any enhancement features that will minimize harm to state-owned conservation land ([Section 23.2.2.1](#)).

Based upon these proposed measures, as warranted, the District will coordinate with the Land Management Agency and begin early preparation of a MOA if necessary. The MOA would formalize FDOT's mitigation commitments for the proposed impact, and/or the necessary funds (or land donation) that provide mitigation.

### **23.2.3 Upland Easement Application, ARC Agenda Item Package and Memorandum of Agreement**

The District prepares an ***Upland Easement Application*** for preliminary staff review and comment by the Land Management Agency and BPLA and submits it to the BPLA. Under subsection ***18-2.109(4), F.A.C.***, agencies do not have to pay a non-refundable application fee.

Once the ***Upland Easement Application*** is accepted, the BPLA assembles and submits an ARC Agenda Item Package to the ARC Staff Director. At this point, the ARC Staff Director will be responsible for scheduling a project review at a regularly scheduled meeting of the ARC. The MOA, when warranted, is developed after the ***Upland Easement Application*** is completed and after the ARC approval of the impact to state-owned conservation lands.

#### **23.2.3.1 ARC Agenda Item Package**

In preparation of the ARC Agenda Item Package, the BPLA staff will consider the ***Upland Easement Application*** and the supplemental information provided by the Land

Management Agency. Coordination, with the Land Management Agency having jurisdiction over the subject property, is summarized in the ***Upland Easement Application*** narrative or when extensive information is needed, it may be provided in a ***SLIR*** prepared by the District. Additionally, correspondence with the Land Management Agency regarding net positive benefit recommendations should be attached and described in the Upland Easement Application.

### **23.2.3.1.1 Upland Easement Application**

The following items are incorporated into the ***Upland Easement Application***. The most recent BPLA application form can be found on the ***FDEP Website*** ([Section 23.5](#)):

1. Type of Easement
2. Applicant Information
3. Property Information
4. Include the following information as applicable:
  - a. Recent aerial photograph with boundaries of proposed easement area identified.
  - b. A statement describing the public benefits that will occur as a result of the proposed project (which requires the easement).
  - c. A letter from the applicable local planning agency stating that the proposed project (thus the easement) is consistent with the local government Comprehensive Plan adopted pursuant to ***Section 163-31667, F.S.***
  - d. A county tax map identifying the parcel proposed for easement.
  - e. Two prints of a certified survey of the easement area meeting the minimum technical standards of ***Chapter 5J-1-050-052, F.A.C.***, which contains the boundaries, legal descriptions, and acreage of the property.
  - f. A Statement of written approval from the Land Management Agency along with a statement from the managing agency describing how the proposed easement conforms to the management plan when the easement application involves state land which is under lease, sublease, easement, or management agreement.
  - g. A statement of intended use which shall include, at a minimum, the following:

1. The requested term for the proposed easement, which shall not be greater than is necessary to provide for the reasonable use of the state land.
2. The need for the proposed easement and written evidence that all other alternatives to the use of state land have been denied.
3. Projected revenue to be generated from the use of the state land.
4. Whether the intended use is public or private and the extent of public access for such use.
5. A description of the type of facility proposed for the easement area (e.g., road, overhead utility, pipes)

### **23.2.3.1.2 Supplemental Information for the Upland Easement Application**

There are recommended items to support and provide the narrative for the ***Upland Easement Application*** that are the responsibility of the BPLA and the Land Management Agency. The District should coordinate the preparation of the ***Upland Easement Application*** and the following supplemental information with the the Land Management Agency prior to submittal:

1. Description of when and under what program or fund the parcel under consideration was acquired (i.e., EEL, LATF), or donated.
2. Description of the purpose of the parcel's acquisition (P-2000 or FF goals and criteria or similar purpose descriptions) or donation and restrictions or conditions of use that apply to the parcel, if any.
3. Description of the current level of public recreational use or public access of the parcel.
4. Description of the natural resources, land cover, vegetation, habitat, or natural community, if any, that are currently present on the parcel.
5. Description and list of the imperiled and other wildlife species, if any, that occur or have use of the parcel. If appropriate, any species survey commitments by FDOT prior to construction.
6. Description and list of historical and/or archeological resources, if any, that occur or have the potential of occurring on the site.

7. Formal alternative siting analysis (i.e., the PD&E alternatives analysis) that includes a description and assessment of other potential alternative sites, and why they are not feasible or practicable alternatives.
8. Assessment of the impacts the proposed alternative use will have on the natural/historical/archeological/recreational resources, if any, as well as on the current public use, and purpose for the site or parcel.
9. Assessment of the potential impacts on the larger area of conservation lands the parcel is located within (park, wildlife management area, forest trail), and on any surrounding conservation lands, if any.
10. Assessment of how the proposed package of consideration and "net positive benefit" for the requested alternative use of the parcel [such as the general standard requirement for replacement land (depending on parcel's size)], will offset the impacts and benefit the larger area of conservation lands (e.g., park, forest, wildlife management area, trail system) that the parcel is within and particularly how it will offset the impacts or benefit the natural/historical/archeological resources, habitat, and public recreational uses of the public conservation area the parcel is located within.

### **23.2.3.1.3 State Lands Impact Report**

The **SLIR** is a detailed report which is prepared utilizing similar information gathered from the PD&E Study documents. The report further addresses the supplemental information to the **Upland Easement Application** described in [Section 23.2.3.1.2](#). Projects with PD&E Studies may have the necessary information available; however, projects without a PD&E Study may require additional information-gathering or analysis and additional time to prepare such information.

### **23.2.3.2 Scheduling ARC Meeting Agenda Item**

Once the BPLA provides the ARC Agenda Item Package to the ARC Staff Director, then the item will be scheduled for the next available ARC meeting. The District should work closely with the BPLA during scheduling of the ARC agenda and inform the OEM PDC of these activities.

The ARC typically meets six times a year (February, April, June, August, October, and December); therefore, review duration can extend for 3-4 months. The Districts should make sure that the ARC Agenda Item documents are finalized with the BPLA at least one month prior to the ARC meeting so that the item can be timely placed on the ARC Agenda and check with BPLA for correct meeting dates.

### **23.2.3.3 ARC Review of ARC Agenda Item Package**

The ARC meetings are public meetings. The District advises the OEM Director of scheduled ARC meetings when an ***Upland Easement Application*** submitted by FDOT is under consideration. At an ARC meeting, either the District presents its request for an easement to the ARC or the BPLA may present the District's request, other stakeholders may present, the public may comment, and then the Council is expected to act on the information provided. FDOT Central Office representatives may attend as needed.

Depending on the nature and extent of the required use of the lands, the District may need to present during the ARC meeting. The PowerPoint presentation outlines the proposed project, avoidance/minimization measures, development of enhancement features, use of state-owned conservation lands, final mitigation proposed for impact to these state lands, and other background information pertinent to the review and approval of the application package. Project location maps and other exhibits will be helpful in explaining the proposed impact to such lands.

### **23.2.3.4 ARC Determination and Development of the MOA**

After review of the ARC Agenda Item Package, the ARC will make the Linear Facilities Policy Determination in regard to the impact to the state-owned conservation lands. If the ARC does not approve the impact, they may defer concurrence to a future meeting, for another review, or defer to the BOT for approval.

If the ARC approves the application package, then the application is revised and finalized. If an MOA is necessary to memorialize those measures which have been conceptually agreed to by the Land Management Agency in issuance of its official letter to FDOT outlining the steps to achieve "net positive benefit", the Land Management Agency, the FDOT, and the TIITF would be signatories.

Depending on the mitigation proposal, there may be a need for the District to program appropriate funds within the Work Program to cover mitigation costs. This step is key to ensuring that available funds will be administered to project mitigation for the impacts to state-owned conservation lands.

### **23.2.3.5 Agencies sign MOA; FDEP Prepares Easement Document for FDOT Approval**

After the ARC meeting and easement approval, the MOA, if necessary, is finalized and signed off on by all agencies pertinent to the MOA.

In addition, BPLA will prepare an easement document for FDOT review and approval. Under subsection ***18-2.020(4)(d)***, ***F.A.C.***, public easements are not subject to an easement fee.

Once both agencies have signed the document, FDOT records the easement with the Clerk of Courts.

## 23.3 ENVIRONMENTAL DOCUMENTATION

The documentation required for each type of Environmental Document is outlined below:

**Type 1 Categorical Exclusion (Type 1 CE)** - Identify in the ***Type 1 Categorical Exclusion Checklist*** ([Part 1, Chapter 2, Class of Action Determination for Federal Projects](#)) if there are state-owned conservation lands being acquired in the project area that are subject to review and approval by the ARC. Include a summary of impacts and coordination (as appropriate) under the Right of Way issue header and include any correspondence in the project file. Final decisions by the ARC and a copy of the MOA if applicable, should be referenced and included in the project file.

**Non-Major State Action (NMSA)** - Identify in the ***Non-Major State Action Checklist*** if there are state-owned conservation lands being acquired in the project area that are subject to review and approval by the ARC. Include a summary of impacts and coordination (as appropriate) under the Right of Way issue header and include any correspondence in the project file. Final decisions by the Council and MOA if applicable, should be referenced and included in the project file.

**Type 2 Categorical Exclusion (Type 2 CE)** - The Cultural Resources/Recreational Areas and Protected Lands section of the ***Type 2 Categorical Exclusion Determination Form*** should specify if state-owned conservation lands are present in the project area. If present, describe the state-owned conservation land subject to review by ARC in the comment box and summarize the outcome of coordination. Include correspondence in the project file. If final decisions by the ARC are made and the MOA is signed prior to Location and Design Concept Acceptance (LDCA), they should be referenced and attached.

**Environmental Assessment (EA) and Environmental Impact Statement (EIS)** - The discussion of impacts to state-owned conservation land should be included in the Recreational Areas and Protected Lands subsection of the Environmental Analysis Section of the Environmental Document. It should include a summary of the identification and impact to state-owned conservation land and the ARC review process. Correspondence during this process should be included in the Comments and Coordination section, referenced in the Environmental Analysis section, and added to the StateWide Environmental Project Tracker (SWEPT) project file. If final decisions by the ARC and MOA are made prior to LDCA, they should be included in the Appendix.

**State Environmental Impact Report (SEIR)** - The discussion of impacts to state-owned conservation lands should be included in the Recreational Areas and Protected Lands subsection of the Environmental Analysis Section of the ***State Environmental Impact Report Form, Form No. 650-050-43***. It should include a summary of the identification and impact to state-owned conservation land and the ARC review process.

Correspondence during this process should be included in the SWEPT project file. If final decisions by the ARC are made and the MOA is completed prior to LDCA, they should be attached.

State-owned conservation land commitments, including commitments in the MOA, are documented in the Commitments section of a Type 2 CE, EA, EIS, or SEIR. See [Part 2, Chapter 22, Commitments](#) for more detail on how to prepare this section. Commitments should be documented according to [Procedure No. 650-000-003, Project Commitment Tracking](#).

Changes in impacts to state-owned conservation land after approval of the Environmental Document must be documented per [Part 1, Chapter 13, Re-evaluations](#).

## 23.4 OTHER APPLICABLE LAWS AND REGULATIONS

When transportation projects affect state-owned conservation lands, other state or federal provisions may apply. In addition to assessment of potential environmental impacts within the project area as further described through-out the [PD&E Manual](#), it should be noted that other, similarly-related federal laws may need to be considered, as applicable, concurrent with ARC coordination.

Because of **NEPA** Assignment, FDOT has assumed FHWA responsibilities for **Section 106** coordination, and has the authority to administer most of the anticipated **Section 4(f)** requirements. Examples of such additional requirements are listed below.

- **Section 4(f)** of the **U.S. Department of Transportation (USDOT) Act of 1966**. Most components are administered by FDOT, in coordination with the resource owner/manager. FHWA coordination is necessary for constructive use and certain other parameters. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), for additional detail.
- **Section 6(f)** of the **Land and Water Conservation Fund Act**. This refers to a federal funding program which provides recreation and conservation funds to states for use in the purchase and development of parks, recreation areas, and refuges. See [Part 2, Chapter 7, Section 4\(f\) Resources](#), for additional detail.
- **Section 106** of the **National Historic Preservation Act of 1966**, which is now administered by FDOT and involves coordination with the State Historic Preservation Office (SHPO) and potentially with the Advisory Council on Historic Preservation. See [Part 2, Chapter 8, Historical and Archeological Resources](#), for additional detail.

## 23.5 REFERENCES

BOT of IITF, Policy; Use of State Natural Resource Lands by Linear Facilities, January 23, 1996

FDEP. Acquisition and Restoration Council Website:

<https://floridadep.gov/lands/environmental-services/content/acquisition-and-restoration-council-arc>

FDEP. Upland Easement Application (Land Lease Application).

<https://floridadep.gov/lands/bureau-public-land-administration/content/uplands-management>

FDOT. Project Commitment Tracking, Procedure No. 650-000-003.

<http://fdotwp1.dot.state.fl.us/ProceduresInformationManagementSystemInternet/FormsAndProcedures/ViewDocument?topicNum=650-000-003>

Florida Rule: 18-21. Sovereignty Submerged Lands Management

Florida Rule: 18-24. Florida Forever Land Acquisition and Management

Florida Rule: 62-330. Environmental Resource Permitting

Florida Rule: 62-818. Florida Forever Program

Memorandum of Understanding Between FHWA and FDOT Concerning the State of Florida's Participation in the Surface Transportation Project Delivery Program Pursuant to 23 U.S.C. 327, December 14, 2016.

<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

Policy for Incompatible use of State Conservation Lands. August 9, 1988

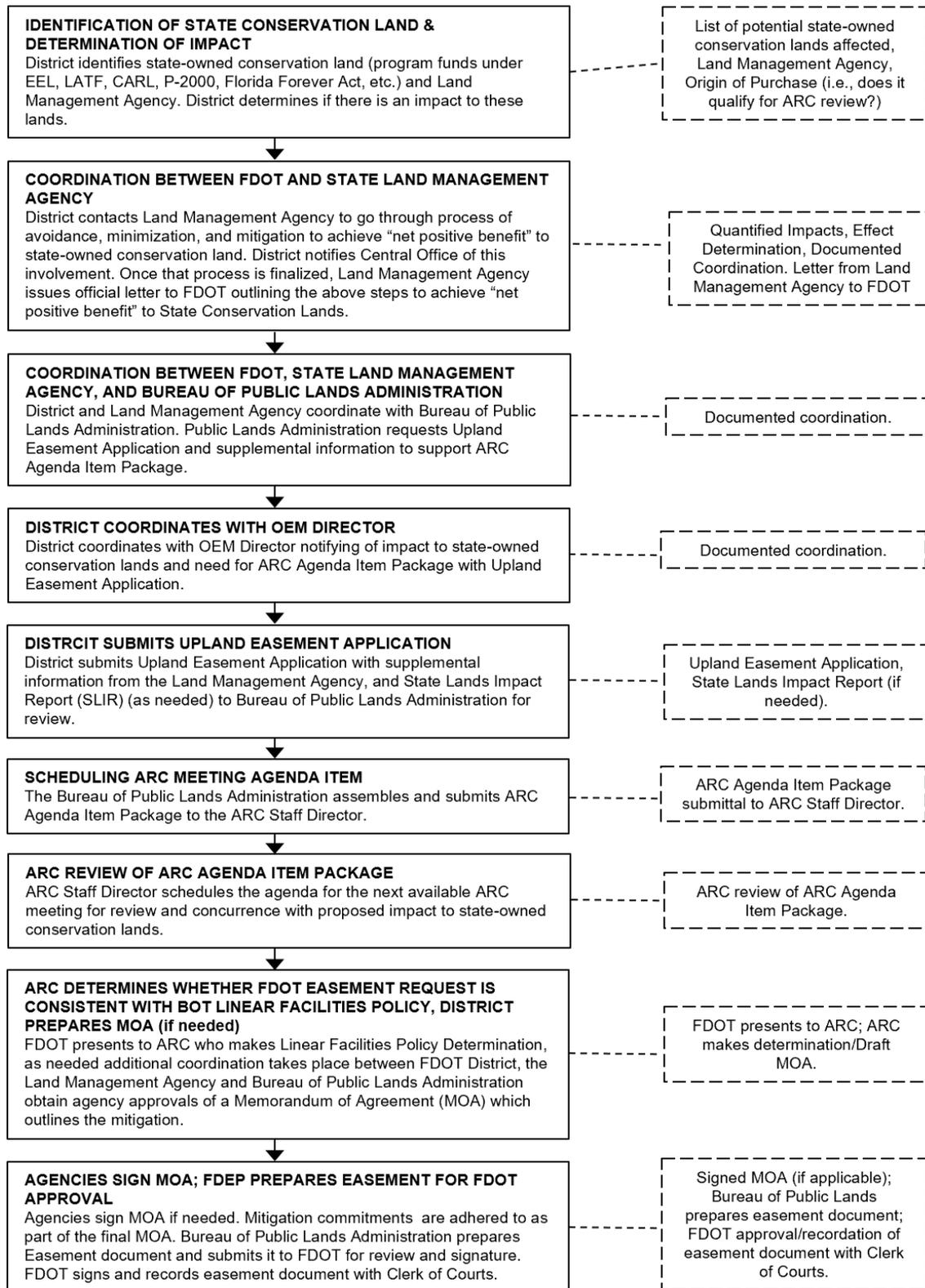
Section 253, F.S., State Lands

Section 253.77, F.S., State lands, state agency authorization for use prohibited without consent of agency in which title vested; concurrent processing requirements

Section 259, F.S., Land Acquisitions for Conservation or Recreation

## 23.6 FORMS

State Environmental Impact Report Form, Form No. 650-050-43



**Figure 23-1 FDOT Coordination Process: Acquisition and Restoration Council (ARC)**