

CHAPTER 12 - RIGHT OF WAY PROCEDURES

12.1 OVERVIEW

Pursuant to federal regulations, FDOT is responsible for ensuring that all right of way needed for Federal-aid projects is acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). FDOT shall provide coordination and oversight necessary to ensure that right of way is acquired in accordance with the Uniform Act and other applicable laws and regulations as implemented by the [FDOT Right of Way Procedures Manual \(Topic No. 575-000-000\)](#).

Local agencies shall comply with the *FDOT Right of Way Procedures Manual* and use FDOT forms when acquiring right of way for LAP projects. The FDOT District Right of Way Manager (DRWM) may approve substitute procedures or forms proposed by the local agency, provided the substitute procedures or forms comply with federal and state laws and regulations

12.2 RIGHT OF WAY ACQUISITION

Right of way acquisition is excluded from general LAP certification pursuant to **Chapter 2**. Local agencies performing right of way activities must work under direct oversight of the FDOT district right of way office. For each right of way project the District Right of Way Manager shall determine the level of oversight required based on the local agency's ability to conduct the necessary right of way activities. The District Right of Way Manager shall assess the local agency's capability based on the local agency's organization, staffing, staff experience, and the specific details of the right of way project, such as the number and complexity of parcels, relocations and demolitions.

Where a local agency does not have adequate trained staff to acquire the needed right of way, the District Right of Way Manager may require the local agency to hire a qualified right of way consultant. The District Right of Way Manager shall determine who will oversee the consultants' work and to what extent. Oversight may be accomplished by the local agency, by the FDOT District Right of Way Office, or may be shared between the local agency and FDOT.

The FDOT District Right of Way Office may acquire needed right of way for LAP (or other federally funded local agency) projects if the District Right of Way Manager decides that acquisition by FDOT is in the best interest of both the local agency and FDOT.

12.3 RIGHT OF WAY ACQUIRED WITHOUT FDOT OVERSIGHT

Local agencies are cautioned that any acquisition of right of way for LAP projects without direct oversight by the FDOT district right of way office may jeopardize LAP funding for the entire project in all phases. This is true regardless of whether the local agency anticipated LAP funding at the time of acquisition. Federal regulations require strict compliance with Uniform Act requirements for all right of way acquired for a federally funded project. Failure to comply with the Uniform Act (as implemented by the ***FDOT Right of Way Procedures Manual***) may result in FHWA withholding all federal funds from the project or require the local agency to conduct and pay for expensive and time consuming right of way remediation to bring the previously acquired parcels into compliance with the Uniform Act (as implemented by the ***FDOT Right of Way Procedures Manual***). Right of way remediation will be considered on a case by case basis by FHWA and FDOT.

12.4 RIGHT OF WAY CERTIFICATION

The District Right of Way Manager must certify that all right of way activities listed below have been completed in conformity with the Uniform Act, other applicable laws and regulations, and right of way is available for construction for all LAP projects. Right of way certification must comply with the requirements of the ***FDOT Right of Way Procedures Manual***. The District Right of Way Manager shall determine the extent of documentation required from the local agency to ensure right of way activities have been completed in conformity with the Uniform Act and other applicable laws and regulations. The local agency must submit a [LAP Certification Form No. 575-095-05](#) to the District LAP Administrator for each LAP project.

Examples of right of way activities that may be necessary for the construction, operation, and maintenance of the project include the following:

- Acquisitions, including donations, of real property interests (i.e., fee simple, temporary and permanent easements).
- Relocation of all persons and businesses that were required to move or move personal property from the project right of way have been provided relocation assistance.
- Demolition of all structures and/or improvements, including encroachments, which have been removed from the project right of way before construction commencement or will be demolished during the construction contract.
- Asbestos abatement of buildings and/or structures, including those to be removed by the construction contractor or will be included in the construction contract.

12.5 RESOURCES

[FDOT Right of Way Procedures Manual](#), Topic No. 575-000-000
[LAP Certification Form No. 575-095-05](#)