

Right of Way Manual

Chapter 1

General

Policies, Procedures and Information

Colorado Department of Transportation

November 2020

TABLE OF CONTENTS

Section 1.1 – GENERAL INFORMATION	2
1.1.1 – Acronyms Common to the Right of Way (ROW) Manual and CDOT	2
1.1.2 – Definitions Important to the ROW Program	4
1.1.3 – Common Authorities	6
1.1.4 – Purpose	6
1.1.5 – Program Functions	6
1.1.6 – CDOT Mission	7
1.1.7 – CDOT Vision	7
1.1.8 – CDOT Values	7
Section 1.2 – CODE OF ETHICS	9
1.2.1 – Code of Ethics	9
Section 1.3 – CONTACT INFORMATION	10
1.3.1 – ROW Office Locations.....	10
1.3.2 – Regional Map	11

Exhibits

Exhibit A – References

Exhibit B – Right of Way Manual FHWA Approval

Section 1.1 – GENERAL INFORMATION

1.1.1 – Acronyms Common to the Right of Way (ROW) Manual and CDOT

BLM	Bureau of Land Management (Department of Interior)
BPR	Bureau of Public Roads (Predecessor to Federal Highway Administration)
BuRec	United States Bureau of Reclamation (Department of Interior)
CAD	Computer Aided Drafting
CE	Categorical Exclusion
CDPHE	Colorado Department of Public Health and Environment
CDOT	Colorado Department of Transportation
CFR	Code of Federal Regulations
CHARN	Colorado High Accuracy Reference Network
CJI-Civ. 4th	Colorado Jury Instructions, Civil 4th
CPA	Certified Public Accountant
CPW	Colorado Division of Parks and Wildlife (Colorado Department of Natural Resources)
CRS	Colorado Revised Statutes
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EPS	Extended Purchasing System
ESA	Environmental Site Assessment
FEIN	Federal Employer Identification Number
FEMA	Federal Emergency Management Agency (U.S. Department of Homeland Security)
FHA	Federal Housing Administration (United States Department of Housing and Urban Development)
FHWA	Federal Highway Administration
FIR	Field Inspection Review
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (a federal law enacted in the wake of the savings and loan crisis of the 1980's)
FLPMA	Federal Land Policy and Management Act of 1976 (Public Law 94-579 94th Congress)
FLTC	Federal Land Transfer Coordinator
FMV	Fair Market Value
FONSI	Finding Of No Significant Impact
FOR	Final Office Review
FS	Feasibility Study
GLO	General Land Office (US Dept. of Interior, Bureau of Land Mgmt.)
GPS	Global Positioning System
HB	House Bill
HBU	Highest and Best Use
HED	Highway Easement Deed
HLR	Housing of Last Resort
HUD	United States Office of Housing and Urban Development
IGA	Intergovernmental Agreement
ISA	Initial Site Assessment
LOC	Letter of Consent

LPA	Local Public Agency
LSCD	Land Survey Control Diagram
MAP-21	Moving Ahead for Progress in the 21st Century, P.L. 112-141
MESA	Modified Environmental Site Assessment
MIDP	Mortgage Interest Differential Payment
MOA	Memorandum of Agreement
MOO	Memorandum of Ownership
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NGS	National Geodetic Survey (National Oceanic and Atmospheric Administration - NOAA)
NHS	National Highway System
NRHP	National Register of Historic Places (National Parks Service, US Dept. of the Interior)
NSRS	National Spatial Reference System (National Oceanic and Atmospheric Administration - NOAA)
PBS	Primary Base Series (USGS Mapping Program)
PCD	Project Control Diagram
PL	Public Law
PLS	Public Land Surveyor (Licensed in the State of Colorado by Colo. Dept. of Regulatory Agencies)
PS&E	Project Specifications and Estimates
PSI	Preliminary Site Investigation
QA	Quality Assurance
QAL	Qualified Appraisers List
QC	Quality Control
QRAL	Qualified Review Appraisers List
REPM	Regional Environmental Project Manager
RFP	Request for Proposal
RHP	Replacement Housing Payment
RI	Remedial Investigation
ROD	Record of Decision (US Environmental Protection Agency)
ROW	Right Of Way
ROWPR	Right Of Way Plan Review
RS	Revised Statute (Federal - first official codification of the Acts of Congress)
RTD	Regional Transportation Director
SPCC	Spill Prevention and Countermeasure Plans
SSN	Social Security Number
State Land Board	State Board of Land Commissioners (Department of Natural Resources)
STIP	Statewide Transportation Improvement Program (4 year transportation planning document required by FHWA)
STURRA	Surface Transportation and Uniform Relocation Assistance Act of 1987
SUP	Special Use Permit
TE	Transportation Enhancement (Moving Ahead for Progress in the 21st Century Act (MAP-21) replaced the TE Activities with the Transportation Alternatives Program (TAP))
TEA 21	Transportation Equity Act for the 21st Century (enacted June 9, 1998 as Public Law 105-178)
TMOSS	Terrain Modeling Survey System (InRoads Computer Software)

Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended (42 USC 4601 <i>et seq.</i>)
USC	United States Code
USCIS	United States Citizenship and Immigration Services (Homeland Security)
USDOT	United States Department of Transportation
USFS	United States Forest Service
USGS	United States Geological Survey
USPAP	Uniform Standards of Professional Appraisal Practice

1.1.2 – Definitions Important to the ROW Program

Acquisition: The process of acquiring real property (real estate) or some interest therein. See the definition of real property.

Agency: A governmental organization (either Federal, State or local) or a non-governmental organization such as a utility company, or a private person using Federal financial assistance for a program or project that acquires real property or displaces a person.

Appraisal: The act or process of estimating the monetary value of an interest in property. The appraisal is to be independent and impartial and prepared by a qualified appraiser. It must set forth an opinion of defined value for an adequately described property. The value will be assigned as of a specific date and will be supported by the presentation and analysis of relevant market data. The term appraisal is also frequently used as a synonym for the written appraisal report.

Business: The term *business* means any lawful activity, except a farm operation, that is conducted:

- i. As an entity licensed to conduct business by the Secretary of the State of Colorado, and which is currently held in *good standing* by the same;
- ii. As an entity who has filed State and Federal taxes as a business in the State of Colorado within the last calendar year;
- iii. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or any other personal property;
- iv. Primarily for the sale of services to the public;
- v. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- vi. By a nonprofit organization that has established its non profit status under applicable Federal or State law.

Condemnation: The legal process of acquiring private property for public use or purpose through the acquiring agency's power of eminent domain. Condemnation is usually not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed. An acquiring agency then goes to court to acquire the needed property.

Easement: In general, the right of one person to use all or part of the property of another person for some specific purpose. Easements can be permanent or temporary (i.e. limited to a stated period of time). The term may be used to describe either the right itself or the document conferring the right.

Eminent Domain: The right of a government to take private property for public use. In the United States, just compensation must be paid for private property acquired for federally funded programs or projects.

Fair Market Value: The sale price that a willing and informed seller and a willing and informed buyer can agree to for a particular property.

Interest: A right, title, or legal share in something. People who share in the ownership of real property have an interest in the property.

Just Compensation: The price an Agency must pay to acquire real property. The price offered by the Agency is considered to be fair and equitable to both the property owner and the public. The Agency's offer to the owner is "just compensation" and may not be less than the amount established in the approved appraisal report as the fair market value for the property. If it becomes necessary for the acquiring Agency to use the condemnation process, the amount paid through the court will be just compensation for the acquisition of the property.

Lien: A charge against a property in which the property is the security for payment of a debt. A mortgage is a lien. So are taxes. Customarily, liens must be paid in full when the property is sold.

Negotiations: The process used by acquiring agencies to reach amicable agreements with property owners for the acquisition of needed property. An offer is made for the purchase of property in person or by mail, and the offer is discussed with the owner.

Person: Any individual, partnership, corporation, or association.

Personal Property: In general, property that can be moved. It is not permanently attached to, or a part of, the real property. Personal property is not to be considered in the appraisal of real property.

Program of Project: Any activity of series of activities undertaken by a Federal Agency. Also, any activity undertaken by a State, local Agency, or individual where Federal financial assistance is used in any phase of the activity.

Qualified Appraiser: A person who, by education, experience, ability, and licensing or certification requirements is capable of preparing an appraisal of a particular piece of real estate.

Real Property: Any interest in land and any improvements thereto, including fee and less-than-fee interests such as: temporary and permanent easements, air or access rights, access control, options, and other contractual rights to acquire an interest in land, rights to control use or development, leases, and licenses, and any similar action to acquire or preserve ROW for a transportation facility. The terms "real property" and "real property interest" are synonymous unless otherwise specified.

Uneconomic Remnant: The portion of an owner's property that remains after the Agency acquires the property needed for a program that the Agency determines has little or no value or utility to the owner. The Agency must offer to purchase the remnant, but the owner may refuse the offer and keep the remnant portion.

1.1.3 – Common Authorities

References to authorities, public law, USC, CFR, and CRS are:

- U.S. Constitution, Fifth and Fourteenth Amendments
- Colorado Constitution, Article II, Section 15
- Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended (42 USC 4601 et seq.)
- 49 CFR Part 24
- 23 CFR Part 710
- Title VI of the 1964 Civil Rights Act
- Colorado Revised Statutes (CRS)
- Memorandum of Understanding with the State Board of Licensure for Professional Engineers and Land Surveyors
- FHWA Stewardship Guide
- CDOT Specifications for Road and Bridge Construction
- CDOT Design Manual

1.1.4 – Purpose

The Right of Way (ROW) program is responsible for ensuring statewide consistency for all ROW functions. The program is headquartered in Denver and has regional offices in five locations throughout the state of Colorado with professional staff of real estate specialists, surveyors, appraisers, administrators and others who deliver the ROW program in support of project delivery.

1.1.5 – Program Functions

The following ROW functions shall be performed in accordance with the Uniform Act, Federal and State law, and CDOT specifications, manuals and procedures:

Policy and Procedure Coordination: The ROW staff and Headquarters coordinates ROW policy and procedure updates with FHWA, the Region ROW Managers, and CDOT management.

Reporting: Headquarters ROW collects data from the Regions and other sources to compile annual reports for FHWA, the Colorado State legislature, and other entities as required or requested.

Special Project Coordination and Delivery: Headquarters ROW collects data, coordinates data and materials and carries out special projects in support of the Region ROW units and CDOT management as requested.

Survey / Plans: Provide survey and ROW plan services to ensure the necessary survey data is collected and ROW plans and legal descriptions are prepared.

Appraisal: Provide appraisal and appraisal review services, and prepare the necessary reports to acquire real estate, establish lease rates, and valuation of excess property for disposal.

Acquisition: Provide acquisition services to ensure the interest acquired in all real estate acquisitions are adequate for the construction, operation and maintenance of the transportation facilities.

Relocation: Provide relocation services to ensure full benefits and protections are provided for displaced persons and businesses.

Agreements and Documents: Provide guidance, research and assistance in preparation of legal documents, deeds, IGA's contracts, etc. relating to real estate matters. Assist in ensuring compliance with all applicable local laws and regulations.

Consultant Management: Manage the fee appraiser, fee review appraiser and fee agent qualification process, qualified consultant lists, and performance documentation process. Also, provide guidance to consultants who provide acquisition, relocation, appraisal, appraisal review and survey and plans, services to CDOT.

Local Public Agency Assistance: Provide Federal oversight and project coordination with LPA's by providing assistance, guidance, training, technical services and monitoring.

1.1.6 – CDOT Mission

The mission of Colorado Department of Transportation is to provide the best multi-modal transportation system for Colorado that most effectively and safely moves people, goods and information.

1.1.7 – CDOT Vision

To enhance the quality of life and environment of the citizens of Colorado by creating an integrated transportation system that focuses on safely, moving people and goods by offering convenient linkages among modal choices.

1.1.8 – CDOT Values

The values that will guide the CDOT and its employees are:

***SAFETY** – We work together to achieve a high-performing safety culture.*

We promote and apply consistent and sustainable safe work behaviors in everything we do.

***PEOPLE** – We value our team.*

We acknowledge and recognize the skills and abilities of our coworkers, place a high priority on employee safety, and draw strength from our diversity and commitment to equal opportunity.

INTEGRITY – We earn Colorado’s trust.

We are honest and responsible in all that we do and hold ourselves to the highest moral and ethical standards.

CUSTOMER SERVICE – We strive to provide the highest level of customer satisfaction and experience.

With a can-do attitude we work together and with others to respond effectively to our customers’ needs.

EXCELLENCE – We are committed to quality.

We are leaders and problem solvers, continuously improving our products and services in support of our commitment to provide the best transportation systems for Colorado.

RESPECT – We treat everyone with respect.

We are kind and civil with everyone, and we act with courage and humility.

Section 1.2 – CODE OF ETHICS

1.2.1 – Code of Ethics

Each person in public office in the executive branch of government shall:

- 1) Serve the public with respect, concern, courtesy and responsiveness;
- 2) Demonstrate the highest standards of personal integrity, truthfulness and honesty and shall through personal conduct inspire public confidence and trust in government;
- 3) Recognize that personal gains from public office are limited to respect, recognition, salary and normal employee benefits;
- 4) Not use public office to bestow any preferential benefit on anyone related to the public official by family, business or social relationship;
- 5) Not disclose or use or allow others to use confidential information acquired by virtue of state employment for private gain;
- 6) Not accept any fee, compensation, gift, payment of expenses, or any other thing of monetary value, under circumstances in which the acceptance may result in:
 - a. An undertaking to give preferential treatment to any person;
 - b. Any loss of complete independence or impartiality; or
 - c. The making of a governmental decision outside official channels.
- 7) Not engage in outside employment unless the outside employment is disclosed to the Governor or the employee's immediate supervisor and the outside employment does not interfere with the performance of state duties;
- 8) Not use state time, property, equipment or supplies for private gain;
- 9) Not knowingly engage in any activity or business which creates a conflict of interest or has an adverse effect on the confidence of the public in the integrity of government;
- 10) Shall carry out all duties as a public servant by exposing corruption in government wherever discovered;
- 11) Shall support equal access and employment opportunities in State government by all citizens of the State of Colorado regardless of age, sex, race, ethnic or national origin; and
- 12) Shall comply with the standards of conduct set forth in title 24, article 18 of Colorado Revised Statutes.

Section 1.3 – CONTACT INFORMATION

1.3.1 –ROW Office Locations

If you have any questions concerning CDOT’s ROW program please contact the appropriate Region Office where the project and/or property is located.

<p>Headquarters 2829 W. Howard Place 3rd Floor Denver, Co. 80204 303-757-9331</p>	<p>The Headquarters Office, located in Denver, is responsible for facilitating the provisions of statewide policies and guidelines, conducting quality assurance, providing training and development and technical assistance to the Regions in support of their responsibilities for program delivery.</p>
<p>Region 1 Anna Arustamova 2829 W. Howard Place 2nd Floor Denver, Co 80204 Anna.Arustamova@state.co.us 303-757-9212</p>	<p>Counties: Adams, Arapahoe, Boulder (US 36 corridor between I-25 & Baseline Rd.) Broomfield (Small Portion North of SH 7), Clear Creek, Denver, Douglas, Gilpin, Jefferson, Summit (Portion)-The Eisenhower Johnson Memorial Tunnel</p>
<p>Region 2 Angel Medina 905 Erie Ave. Pueblo, CO 81001 Angel.Medina@state.co.us 719-546-5730</p>	<p>Counties: Baca, Bent, Crowley, Custer, Douglas (Small portion of SH 67) El Paso, Fremont, Huerfano, Kiowa, Las Animas, Otero, Park, Prowers, Pueblo, Teller.</p>
<p>Region 3 Lisa Gerondale 222 South Sixth St. Room 317 Grand Junction, CO 81501 Lisa.Gerondale@state.co.us (303) 683-6224</p>	<p>Counties: Delta, Eagle, Garfield, Grand, Gunnison (Portion), Hinsdale, Jackson, Lake, Mesa, Moffat, Montrose (Portion), Pitkin, Rio Blanco, Summit (Portion), Routt.</p>
<p>Region 4 Peter Sulmeisters 10601 W. 10th Street Greeley, CO 80634 Peter.Sulmeisters@state.co.us 970-350-2157</p>	<p>Counties: Boulder (Portion), Broomfield (Portion), Cheyenne, Elbert, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, Weld, Yuma.</p>
<p>Region 5 Brian Spain 3803 N. Main Ave. Suite 300 Durango, CO 81301 Brian.Spain@state.co.us 970-385-1434</p>	<p>Counties: Alamosa, Archuleta, Chaffee, Conejos, Costilla, Dolores, Gunnison (Small portion), La Plata, Mineral, Montrose (Portion), Montezuma, Ouray, Rio Grande, Saguache, San Juan, San Miguel.</p>

1.3.2 –Regional Map

