

## **Chapter 5. Acquisition**

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## 5.145 Conflicts of Interest

- a. The appraiser or agent preparing an administrative determination of value of a parcel valued over ~~\$2,500~~ **\$10,000** may not be assigned to acquire that property. The appraiser of parcels valued at ~~\$2,500~~ **\$10,000** or less may negotiate their purchase after the just compensation has been approved and with the approval of the Region **Right of Way** Manager.
- b. Right of Way Agents will not deliver payments on files, which they negotiated.
- c. See also Chapter 2, ~~2.300, # 5~~ **120 (5) - Operating Procedures Policies**.

## 5.210 State Right of Way Manager

The **State** Right of Way Manager has ~~delegated~~ authority from the Oregon Transportation Commission (OTC) to **take all actions necessary to acquire real property that has been authorized by resolution and to establish the procedures necessary to complete the transactions including condemnation. The procedures approved by the Sate Right of Way Manager and included in this manual establish the authority to** accept agreements and other documents relating to property the OTC has authority to acquire. **These procedures establish** Signature authority is ~~sub-delegated~~ in a variety of instances ~~to~~ **with** the three Right of Way Section Unit Managers and/or the five Region Right of Way Managers. (See [5.591](#).) Acceptance of these documents creates a binding agreement between the grantor and the Department.

## 5.220 Right of Way Operations Unit Manager

The Operations Unit Manager has the lead role in setting Acquisition policy and overseeing the Acquisition process for the Right of Way Section. This position works with the Region Right of Way offices, DOJ and FHWA to coordinate Right of Way Acquisition efforts and to ensure conformance with all legal requirements as well as quality and consistency in Acquisition activities.

**The Operations Manager has authority to approve all settlements and agreements with property owners and accept all documents for the purchase of rights of way. Typically, the Operations Manager approves settlements and accepts documents in the following circumstances:**

- a. **Settlements greater than \$50,000 and more than 20% over the just compensation amount; or**
- b. **Settlements which are the result of the Section's Alternate Dispute Resolution (ADR) process; or**
- c. **Settlements arrived at through the Condemnation processes.**

### **5.230 Region Right of Way Manager**

1. The Region Right of Way Manager is responsible for carrying out the acquisition process in the Region in conformance with state and federal laws and the Right of Way Section's policies and procedures. The Manager may designate a Right of Way Project Manager to assist in directing the work of Right of Way Agents in the field.
2. **The State Right of Way Manager must approve the qualifications of the Regional Right of Way Manager in order to exercise the authority granted in this manual. The State Right of Way Manager may further limit and condition these authorities until he/she determines the Region Right of Way Manager is fully qualified to exercise the authority granted herein.**
3. **Upon approval by the State Right of Way Manager, the Region Right of Way Manager has the authority to:**
  - a. **Make formal offers to acquire real property in preparation for condemnation based upon the value established by the appraisal process.**
  - b. **Approve and execute fee appraisal and value-related contracts for property acquisition/relocation, demolition contracts, and repair and maintenance agreements up to \$25,000.**
  - c. **Approve and execute agreements with other governmental jurisdictions.**
  - d. **Approve final reports and accept agreements, conveyance documents and all other documents for settlements within the following limits and parameters:**
    1. **Any monetary settlement for the reviewed or approved amount.**
    2. **Any monetary settlement under \$50,000 total price, regardless of the percentage increase.**
    3. **Any monetary settlement within 20% of the reviewed or approved amount.**
    4. **A properly document Letter of Justification must accompany any settlement over the reviewed or approved amount and must detail why the settlement is in the best interest of the State.**
    5. **Major negotiated construction obligations and other state obligations approved by Region that comprise a portion of the settlement over the reviewed amount shall be appropriately valued, included in the final settlement**

**total as part of the Letter of Justification, and are subject to the above limits. Construction obligations may not offset damages or result in double compensation for items acquired which were included in the Appraisal Review.**

### **5.591 Authority to Approve Final Reports**

**The Oregon Transportation Commission retains authority to approve acquisition of real property. This authority is not delegated down to the Highway Division. The OTC approves the acquisition of real property by resolution and directs the State Right of Way Manager to take all actions necessary to complete the transactions.**

**The State Right of Way Manager has authority to establish the procedures necessary to complete the transactions including condemnation. The procedures approved by the State Right of Way Manager and included in this manual establish the authority to approve Final Reports, agreements, conveyance documents and all other documents relating to property the OTC has authority to acquire.**

Acceptance and approval of Final Reports and all acceptance agreements and documents relating to the acquisition of property for the Oregon Department of Transportation has been delegated to the Right of Way Manager. The State Right of Way Manager ~~sub-delegates the authority~~ **authorizes the Region Right of Way Managers (See 5.230)** to approve monetary settlements to the Region Right of Way Managers in the following instances:

1. For all monetary settlements not exceeding the approved just compensation amount;
2. For settlements over the just compensation amount but less than \$50,000 total price;
3. For settlements over the just compensation amount and exceeding \$50,000 but within 20% of the approved just compensation amount.

Negotiated construction obligations and other State obligations approved by the Region must be appropriately valued and included in the final settlement total and subject to the above limits.

The State Right of Way Manager ~~sub-delegates~~ **authorizes** settlement approval in all other instances to the three Headquarters Right of Way Unit Managers. The Operations Unit Manager has the primary ~~sub-delegated~~ responsibility (**See 5.220**). In the absence of the Operations Manager, the authority is ~~sub-delegated~~ **given** to the Program Management Unit Manager and the Project Administration Unit Manager.

All settlements over the approved just compensation amount must be supported by a Justification Letter. This Letter must clearly lay out the rationale for settling over the

approved amount and why it is in the best interests of the State to do so. The Region Right of Way Manager must sign the Justification Letter and include it in the Final Report packet.

Proposed settlements that are significantly over the reviewed amount and which will require the approval of the Operations Manager should be discussed with the Operations Manager as early as possible, prior to submitting a Final Report packet.

Settlements involving the trade of surplus ODOT property in lieu of money must have the written approval of the **State** Right of Way Manager.