

## **PROJECT COORDINATION**

### **CHAPTER 12**

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## RIGHT OF WAY PROJECT COORDINATION

### 12.100 INTRODUCTION

The Right of Way Section, through its Project Coordination function, manages the programming of all Right of Way projects which either utilize federal and/or state transportation funding in some portion of the highway project or, in the case of Local Public Agency (LPA) funded projects, involve Oregon Department of Transportation (ODOT) staff to some degree in the right of way acquisition. The Project Coordination function is carried out under the Project Administration Unit of the Right of Way Section.

There are essentially three types of Right of Way projects for which the Right of Way Section has responsibility:

1. Federal-aid projects. These involve some degree of federal reimbursement in one or more stages of the project:
  - a. preliminary design;
  - b. right of way acquisition;
  - c. construction

These can be either state or local public agency projects.

2. State funded projects. These utilize only state funds in all portions of the project.
3. Local Agency funded projects. These are funded entirely by the local agency responsible for the project, however, through an interagency agreement, ODOT staff will perform all or a portion of the right of way acquisition process.

Each of these three types of projects requires differing levels of Project Coordination activities.

### 12.120 POLICIES

1. The Right of Way Section shall maintain a current record of all active Right of Way projects.
2. Projects identified for federal-aid reimbursement shall have all necessary right of way acquisition and costs programmed and certified in accordance with the regulations as set forth in Title 23 of the Code of Federal Regulations (Parts 630, 635 and 710

generally).

3. The Programming Coordinator, in accordance with FHWA directives, will coordinate any requests by the Regions to the FHWA for protective buying or hardship acquisitions.

4. ODOT will not claim federal-aid participation for the acquisition of uneconomic remnants.

### 12.200 RESPONSIBILITIES

#### 12.210 RIGHT OF WAY PROJECT ADMINISTRATION MANAGER

In the Project Coordination function, the Right of Way Project Administration Manager is responsible for:

1. All Section policy which impacts the Project Coordination function;
2. Oversight and supervision of all aspects of the project coordination function;
3. Technical expertise and supervisory support to the Programming Coordinator;
4. Interaction with FHWA, other ODOT Sections, Regions, Consultants, and outside agencies concerning project coordination policies.

#### 12.220 PROGRAMMING COORDINATOR

The Programming Coordinator, under the supervision of the Project Administration Manager, is responsible for the day to day project coordination operations of the Section. These include:

1. Processing new projects received from ODOT Regions, Consultants, or other agencies and requesting updated programming estimates for Right of Way activities.
2. Coordinating with the Highway Finance Office (HFO) to obtain authorization to proceed with right of way acquisition activities.
3. Processing revisions.
4. Processing project certifications sent in by the Regions.
5. Coordinating with ODOT Regions, other ODOT Sections, FHWA, Consultants and

other agencies as needed.

6. Closing out project expenditure accounts and updating the Right of Way Automated Information Network (RAIN) database at the conclusion of projects.

### **12.230 REGION RIGHT OF WAY OFFICE**

Each ODOT Region has a Right of Way Office and staff under the direction of a Region Right of Way Manager who reports to the Region Tech Center Manager. These offices are not part of the Right of Way Section. They are responsible for carrying out the right of way phase of transportation projects for the Regions while the Right of Way Section maintains responsibility for quality assurance, compliance with Federal and State requirements, as well as certain direct project support functions such as Project Coordination. Regarding the Project Coordination function, the Region Right of Way Manager, delegated Region Right of Way staff, and Region Project Development Leaders maintain responsibility for:

1. Providing acceptable Right of Way Drawings, legal descriptions and appropriate access language;
2. Creating and submitting programming cost estimates;
3. Initiating requests for authorization of right of way activities;
4. Providing revisions;
5. Providing market value estimates to the HFO as needed for crediting of real property on federal-aid projects;
6. Recording project data in RAIN
7. Transmitting the project packet to the General Files;
8. Certifying federal-aid projects prior to construction contract letting

### **12.300 PROCEDURES ON FEDERAL-AID PROJECTS**

To obtain federal financing of projects ODOT must comply with the regulations as set forth in Title 23 Code of Federal Regulations (Parts 630, 635 and 710 generally). Projects that are to qualify for federal participation must be included in appropriate federal-aid programs and the procedures utilized for the

acquisition of real property must be done in accordance with applicable State and Federal laws and Federal Highway Administration (FHWA) directives. The major steps involved in dealing with the FHWA for the purpose of obtaining federal participation in a project are programming, authorization and reimbursement .

### **12.310 PROGRAMMING OF FEDERAL-AID PROJECTS**

A portion of ODOT's highway improvement program is financed with federal funds. Among the prerequisites for the use of federal funds is the requirement that a proposed improvement be included in Oregon's final Statewide Transportation Improvement Program (STIP) approved by FHWA. The programming of federal-aid funds in the STIP for highway projects is based on the three common phases of a construction project: design (preliminary engineering), land purchase (right of way) and construction. If the right of way acquisition phase of a project is to qualify for federal-aid, it is necessary that the estimated amount of federal funds needed for the land purchase phase be included in the STIP.

### **12.320 FEDERAL AUTHORIZATIONS**

As a condition for receiving federal-aid, ODOT must obtain FHWA authorization before proceeding with work or legally obligating itself to pay for the work. In general, no work can qualify for federal participation if performed prior to the date of authorization. For federal funding of a project, ODOT generally obtains separate authorizations for the preliminary engineering, right of way and construction phases through an electronic combined authorization/project agreement process. This process utilizes an electronic signature system and includes the majority of the project information required for FHWA's authorizations.

For projects in which FHWA has retained responsibility for the review and approval of the Plans, Specifications and Estimates (PS&E) under the ODOT/FHWA Stewardship Plan, Right of Way Drawings, plans or other appropriate documents necessary to define the scope of the proposed acquisition work are provided to FHWA when requesting authorization to acquire right of way. For federal-aid projects in which ODOT has

assumed responsibility for PS&E approval, the documents defining the scope of acquisition work are retained by ODOT when requesting authorization. A change in the scope of project work and/or funding requirements during the course of a project requires amendment of the federal-aid authorization/project agreement.

The initiative to obtain authorization and place a Right of Way project under agreement is normally the responsibility of the Right of Way Section, in cooperation with the Highway Finance Office (HFO), through the actions of the Programming Coordinator. The Programming Coordinator provides the necessary information to the HFO which then makes formal application to the FHWA for federal funding.

Prerequisites for requesting federal authorization of any Right of Way work (preliminary activities, advanced acquisition, right of way acquisition) are the following:

1. The Project and its land purchase phase must be in the STIP.
2. Required environmental actions have been fulfilled for the phase of Right of Way work to be advanced.
3. The scope of work is clearly identified (Right of Way Drawings, plans or other acceptable documents).
4. The updated programming estimate for the scope of work has been completed.
5. Appropriate justification and documentation for advanced acquisition have been submitted.
6. Appropriate justification and documentation supporting the use of the preliminary value estimate or the actual fair market value of real property to be used for credit against ODOT's share of the project have been provided.

### **Federal Authorization for Preliminary Right of Way Activities**

Preliminary Right of Way activities include: title work, preparation of plans, plats and legal descriptions, relocation studies and appraisal work. Only those preliminary Right of Way activities, including title search, cost estimates, relocation studies and preliminary property map preparation necessary for the completion of the environmental process, can be

advanced under a FHWA authorized preliminary engineering project. Completion of preliminary Right of Way activities necessary for the acquisition of real property generally will not be authorized for federal participation until the appropriate environmental actions have been completed, and then such authorization will normally require a separate Federal-Aid Right of Way project. Any exception from the normal process must be approved in advance by FHWA and should be initiated through the Right of Way Programming Coordinator. However, limited appraisal activities and relocation planning maybe authorized as Federally funded preliminary Right of Way activities when FHWA concurs with ODOT's determination that:

1. There are no known environmental issues that could substantially change the preferred build alternative, or
2. Alter the anticipated date for final environmental approval, and
3. Advancement of the appraisal and relocation work will effectively facilitate advancement of the project.

### **Federal Authorization for Advanced Acquisition**

In extraordinary cases, prior to final project environmental approval, FHWA may authorize federal participation in the acquisition of a particular file or a limited number of files to prevent imminent development and increased costs of the preferred location alternative (Protective Buying), or to alleviate hardship to a property owner or owners located on the preferred location alternative (Hardship Acquisition), provided the following conditions are met:

1. The project is included in the currently approved STIP;
2. ODOT has complied with applicable public involvement requirements in 23 CFR parts 450 and 771;
3. A determination of applicability of 4(f) considerations has been completed for any property subject to the provisions of 23 U.S.C. 138;
4. Procedures of the Advisory Council on Historic Preservation are completed for properties subject to 16 U.S.C. 470(f) (historic properties); and

5. FHWA has approved a determination that the advanced acquisition meets the criteria for a categorical exclusion (CE) in accordance with 23 CFR 771.117 (d) (12).

For FHWA's authorization for protective buying, ODOT must clearly demonstrate that development of the property is imminent and such development would limit future transportation choices. A significant increase in cost may be considered as an element in justifying a protective purchase.

For FHWA's authorization of hardship acquisitions ODOT must accept and concur in a request for a hardship acquisition based on a property owner's written submission that:

1. Supports the hardship acquisition by providing justification, on the basis of health, safety or financial reasons, that remaining in the property poses an undue hardship compared to others; and
2. Documents an inability to sell the property because of the impending project, at fair market value, within a time period that is typical for properties not impacted by the impending project.

### Federal Authorization for Right of Way Acquisition

Once the appropriate project environmental actions have been concluded and the Land Purchase phase is included in the currently approved STIP, ODOT can request FHWA's authorization for the Right of Way phase or some limited portion of the project's Right of Way phase. Subject to the scope of work as identified in the project authorization/project agreement process, federal participation in real property costs is limited to the costs of property incorporated into the final project and the associated direct costs of acquisition, unless provided otherwise. Participation is generally provided for:

- (1) *Real property acquisition.* Usual costs and disbursements associated with real property acquisition required under the laws of the Oregon, including the following:
  - a. The cost of contracting for private acquisition services or the cost associated with the use of local public

agencies;

- b. The cost of acquisition activities such as, appraisal, appraisal review, cost estimates, relocation planning, Right of Way plan preparation, title work, and similar necessary Right of Way related work.
- c. The cost to acquire real property, including incidental expenses.
- d. The cost of administrative settlements in accordance with 49 CFR 24.102(i), legal settlements, court awards, and costs incidental to the condemnation process.
- e. The cost of minimum payments (see Sec. 4.525, Chapter 4) and appraisal waiver amounts (see Sec. 4.545, Chapter 4).

(2) *Relocation assistance and payments.* Usual costs and disbursements associated with relocation assistance and payments required under 49 CFR part 24.

(3) *Damages.* The cost of severance and/or consequential damages to remaining real property resulting from a partial acquisition, actual or constructive, of real property for a project based on elements compensable under applicable Oregon law.

(4) *Property management.* The net cost of managing real property prior to and during construction to provide for maintenance, protection, and the clearance and disposal of improvements until final project acceptance.

(5) *Payroll-related expenses and technical guidance.* Salary and related expenses of employees of an acquiring agency are eligible costs in accordance with OMB Circular A-87 (available at <http://www.whitehouse.gov/omb/circulars>).

This includes ODOT costs incurred for managing or providing technical guidance, consultation or oversight on projects in which Right of Way Services are performed by a political subdivision or others.

(6) *Property not incorporated into a project funded under Title 23 of the United States Code.* The cost of property not incorporated into a project may be eligible for reimbursement in the following circumstances:

- a. *General.* Costs for construction

material sites, property acquisitions to a logical boundary, or for eligible transportation enhancement, sites for disposal of hazardous materials, environmental mitigation, environmental banking activities, the acquisition of a buildable residential lot under the provisions of the relocation program or last resort housing.

- b. *Easements not incorporated into the right of way.* The cost of acquiring easements outside the right of way for permanent or temporary use.
- (7) *Uneconomic remnants.* The cost of uneconomic remnants purchased in connection with the acquisition of a partial taking for the project as required by the Uniform Act. However, ODOT's policy precludes the claiming of federal participation in the cost of uneconomic remnants.
- (8) *Access rights.* Payment for full or partial control of access on an existing highway (i.e., one not on a proposed new alignment), based on elements compensable under applicable State law. Participation does not depend on another real property interest being acquired or on further construction of the highway facility.
- (9) *Utility and railroad property.*
  - a. The cost to replace operating real property owned by a displaced utility or railroad and conveyed to ODOT for a highway project, as provided in 23 CFR Part 140, subpart I, Reimbursement for Railroad Work, and 23 CFR part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, and 23 CFR part 646, Subpart B, Railroad-Highway Projects.
  - b. Participation in the cost of acquiring non-operating utility or railroad real property shall be in the same manner as that used in the acquisition of other privately owned property.

Costs resulting from the application of access remedies under OAR 731-051-0500 are not eligible for Federal participation.

## **Withholding Payment**

FHWA may withhold payment under the conditions set forth in 23 CFR 1.36 in which ODOT fails to comply with Federal law or regulation, State law, or under circumstances of waste, fraud, and abuse.

## **Federal Authorization for Right of Way Costs in Design-Build Contracts**

For design-build projects, FHWA's authorization to advertise or release the Request for Proposals (RFP) and its concurrence in the award of the design-build contract will constitute federal construction authorization which includes the costs of Right of Way Services called for in the RFP. For federal participation in ODOT's direct Right of Way costs on a design-build project a separate federal-aid Right of Way project is required.

## **Federal Authorization for Functional Replacement of Real Property in Public Ownership**

When publicly owned real property, including land and/or facilities, is to be acquired for a federal-aid highway project, in lieu of paying the fair market value for the real property, ODOT may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility. FHWA may authorize federal participation in the functional replacement cost providing ODOT has complied with the requirements in 23 CFR 710.509.

## **Federal Reimbursement**

The Federal-aid Highway Program is a reimbursement program and ODOT may obtain federal funds for the federal share of the projects costs under the following conditions:

1. FHWA authorized ODOT to proceed with the Right of Way work.
2. The federal-aid project agreement has been executed.
3. ODOT has legally obligated itself under State law to pay the Right of Way costs.
4. The Right of Way costs have been incurred in conformity with Oregon and Federal law requirements and FHWA regulations.

### 12.330 PROJECT COORDINATION STEPS ON A FEDERAL-AID RIGHT OF WAY PROJECT

1. Region staff request a project number assignment from the Programming Coordinator when they are preparing the Right of Way Drawings and legal descriptions;
2. The Programming Coordinator:
  - a. Creates a project file;
  - b. Sets up project and property file information in RAIN;
  - c. Checks to determine that the necessary prerequisites have been accomplished:
    - i. The project is identified and budgeted in the STIP;
    - ii. Required environmental actions have been completed
3. ODOT Region staff submit copies of the completed project Right of Way Drawings and legal descriptions to the Programming Coordinator;
4. The Programming Coordinator requests that the Region staff or Consultant prepare and submit an updated programming cost estimate for the project;
5. Upon receipt of the cost estimate, the Programming Coordinator determines that sufficient funding has been approved in the STIP budget for the Right of Way project;
6. The Programming Coordinator makes a formal request for funding approval to the HFO;
7. The HFO formally requests funding approval and authorization from FHWA;
8. When funding approval has been received from FHWA and the HFO, the Programming Coordinator:
  - a. Sets up the Right of Way expenditure account in the Transportation Environmental Accounting and Management System (TEAMS);
  - b. Authorizes the Region to commence Right of Way activities and provides a project expenditure account to capture all subsequent costs. The Region and/or Consultants under contract with the Region are not to proceed with the Right of Way activities until this authorization is

given to the Region Right of Way Unit by the Programming Coordinator.

### 12.340 REVISIONS AND ADDED FILES ON FEDERAL-AID PROJECTS

During the course of a project some Right of Way descriptions may be revised and/or new files added. The Region description writer or Consultant forwards the revisions and added files to the Right of Way Programming Coordinator for processing. The Programming Coordinator sets up new files in the Record Section and creates and updates RAIN files as needed, regarding access management language and the existence of excess parcels.

When the revision results in the need for additional property that was not included in the FHWA project authorization, or when it increases anticipated expenditures beyond the amount currently authorized, additional authorization must be obtained from FHWA. The Programming Coordinator follows the procedure beginning with step 4 in 12.330.

When an existing file is split, such as with an ownership change, and a new file is created, the new file will not require programming as it is considered authorized under the parent file. The Region may also need to reallocate project dollars to make certain a revised project has sufficient STIP funding.

### 12.350 CERTIFICATION OF FEDERAL-AID PROJECTS *(see also 3.680 – 3.685 and Appendix B following Chapter 3 for a more detailed discussion of Certification)*

On all federal-aid projects the Region Right of Way Unit must certify to the FHWA that all right of way was obtained in conformance with Federal regulations, that the State has legal and physical possession and/or the right to use all necessary right of way, and that all displaced occupants have relocated and have been offered decent, safe, and sanitary housing.

Typically seven to ten weeks before a proposed contract bid letting date, the Region Right of Way Manager will prepare the Certification stating that all property has been acquired according to Federal regulations. In some cases a project may be certified with Exceptions, stating that certain properties have

not yet been acquired or the State does not yet have possession. The date the State anticipates having possession of these properties needs to be specified.

The completed and signed Certification is sent to the Right of Way Programming Coordinator who distributes a copy to the HFO on federal-aid projects and maintains a copy for the Right of Way Performance Measures. The Region Right of Way Manager also provides a copy of the Certification to the region Project Development Team Leader who incorporates it into the materials sent in to the Office of Pre-Letting in Headquarters.

The HFO submits the Right of Way Certification to FHWA when requesting Plans, Specifications and Estimates (PS & E) approval and authorization to advertise. Where exceptions have been stated on the Right of Way Certification, a public interest finding is necessary to allow the project to be advertised.

### **12.360 CREDIT FOR VALUE OF REAL PROPERTY**

ODOT may claim a credit toward its share of a Federal-aid project for the fair market value of real property donated to the project by a non-governmental owner and real property owned by State and local governments that is incorporated within the project. When a credit will be claimed the project agreement needs to document that fact. ODOT and FHWA have a documented policy and procedures for crediting donations and contributions. This can be obtained, along with necessary forms, from the HFO.

The Region Right of Way Managers have the following responsibilities and authorities in the crediting process:

1. Establish market value for real property donations or previously acquired property contributions by ODOT;
2. Approve market value for Local Agency real property donations or contributions;
3. Provide written approval to Local Agencies requesting to use donations or contributions of real property to apply as match on a project;

4. Provide the required written certification of donations and contributions to FHWA as detailed below.

### **Credit for Real Property Donated to ODOT or Local Governments**

To support the credit for a donated real property Region Right of Way will need to establish or, in the case of LPAs, approve a fair market value for the real property. Market value is based on the earlier of the following: either the date on which the donation becomes effective, or the date on which equitable title to the property vests in the State. The fair market value shall not include increases or decreases in value caused by the project. Before finalizing the project agreement with the claim of credit for donated real property, FHWA requires an ODOT certification of the following:

1. That prior to accepting the property the owner was informed of his/her right to receive just compensation for the property, or of any part thereof;
2. The owner was fully informed in writing of their rights and ODOT's appraisal obligation; and
3. That any document executed as part of such donation prior to an environmental document prepared pursuant to the National Environmental Policy Act of 1969 clearly indicated that:
  - a. All alternatives to a proposed alignment would be studied and considered pursuant to such Act;
  - b. Acquisition of property would not influence the environmental assessment of the project including the decision relative to the need to construct the project or the selection of a specific location; and
  - c. The property acquired by donation would be re-vested in the grantor or successors in interest if such property was not required for the project after completion of the environmental document.

The written certification is done by the Region Right of Way office, signed by the Supervisor and sent to the HFO.

## Credit for Contribution of Real Property by State or Local Governments

To support the credit for the contribution of previously acquired real property to a project Region Right of Way will need to establish current fair market value for the real property or, in the case of LPA contributions, approve the value provided. The general policy for establishing market value for previously acquired real property is to base the value on the historic acquisition cost that was supported by a fair market negotiation process. However, an alternative process of establishing a current fair market value through the appraisal and review process is to be used:

1. if there has been a significant lapse of time since the property was acquired; or
2. if there has been a significant change in the market conditions (not caused by the project) since the property was acquired.

The fair market value shall not include increases or decreases in value caused by the project. The appraisal process for arriving at current fair market value shall comply with the policies and procedures detailed in Chapter 4 of the ODOT Right of Way Manual with the project agreement date as the date of value..

Before finalizing the project agreement with the claim of credit for the contribution of real property FHWA requires an ODOT certification of the following:

1. The property was lawfully obtained
2. The property was acquired in accordance with the provisions of 49 CFR part 24
3. The property was not land described in 23 USC 138 (public park and recreation lands, wildlife and waterfowl refuges, and historic sites)
4. The original project agreement was executed on or after June 9, 1998
5. The property is not already devoted to transportation/project purpose
6. The property was not acquired with any form of Federal Financial assistance
7. ODOT determined and FHWA concurred that ownership of the real property did not influence the environmental assessment for the project, including:
  - a. The decision to construct;
  - b. The consideration of alternatives; and

- c. The selection of the design or location.

The written certification is done by the Region Right of Way office, signed by the Supervisor and sent to the HFO.

## 12.400 PROCEDURES ON STATE FUNDED PROJECTS

Projects are authorized for the expenditure of state dollars within a biennium through the creation and approval of the State Transportation Improvement Plan (STIP). Every Right of Way project in the approved STIP has an identified budget. State funds come from the Oregon Highway Trust Fund as well as other funding sources, such as OTIA funds (Oregon Transportation Initiative Act, which is authorized by the Legislature.).

The Programming Coordinator, in cooperation with the HFO, provides authorization for the Regions or Consultants to commence work on state funded Right of Way projects. The prerequisites for authorization are similar to those of federal-aid projects:

1. The Project and its land purchase phase must be in the Statewide Transportation Improvement Program (STIP).
2. Required environmental actions have been fulfilled for the phase of Right of Way work to be advanced.
3. The scope of work is identified (Right of Way Drawings, plans or other acceptable documents).
4. The programming estimate for the scope of work has been completed.
5. Sufficient funding for the project is available in the approved STIP.
6. Appropriate justification and documentation for advanced acquisition has been submitted.

## 12.410 PROJECT COORDINATION STEPS ON A STATE FUNDED RIGHT OF WAY PROJECT

1. Region staff request a project number assignment from the Programming Coordinator when they are preparing the Right

- of Way Drawings and legal descriptions;
2. The Programming Coordinator :
    - a. Creates a project file
    - b. Sets up project and property file information in RAIN
    - c. Checks to determine that the necessary prerequisites have been accomplished:
      - i. The project is identified and budgeted in the STIP;
      - ii. Required environmental actions have been completed
  3. ODOT Region staff submit copies of the completed project Right of Way Drawings and legal descriptions to the Programming Coordinator;
  4. The Programming Coordinator requests that the Region prepare and submit a programming cost estimate for the project if this was not included with the maps and descriptions;
  5. Upon receipt of the cost estimate, the Programming Coordinator determines that sufficient funding has been approved in the STIP budget for the Right of Way project. No work can proceed on the right of way acquisition until the Region has provided sufficient project funding;
  6. The Programming Coordinator notifies the HFO of the programming estimate;
  7. The Programming Coordinator sets up the Right of Way project expenditure account in TEAMS;
  8. The Programming Coordinator provides authorization to the Region for the start of right of way activities. The Region and/or consultants under contract with the Region are not To proceed with the Right of Way activities until this authorization is given to the Region Right of Way Unit by the Programming Coordinator.

**12.420 REVISIONS AND ADDED FILES ON STATE PROJECTS**

The procedure for revisions on state funded projects is the same as is 12.340 except for FHWA involvement. The Programming Coordinator receives a determination from the Region or consultant whether the revisions will cause the Right of Way expenditures

to exceed the approved STIP budget. If so, the Region Area Manager and Project Leader will be required to reallocate funding to provide for the increased project expenditures.

**12.430 CERTIFICATION OF STATE PROJECTS (see also 3.680 – 3.685 and Appendix B following Chapter 3 for a more detailed discussion of Certification)**

Certification of state funded Right of Way projects is a department requirement. Certification ensures that federal requirements are met in case of later federalization of the construction phase of the project. Further, it acts as a quality check at the conclusion of the project and provides needed information to the Roadway Office of Pre-Letting during the P S & E phase. The procedure follows 12.350 except that a copy of the certification is not provided to the HFO.

**12.500 PROCEDURES ON LOCAL PUBLIC AGENCY (LPA) PROJECTS**

For funding and authorization purposes, there are two types of LPA projects:

1. LPA projects programmed in the STIP. These involve state/federal dollars in some portion of the project in addition to local agency funds.
2. Non-STIP LPA projects. These are projects that are entirely funded with local dollars. The Right of Way Section and the Regions may be involved with these projects through a services agreement in which the Department performs some component of the project work for the LPA.

**12.510 LOCAL PUBLIC AGENCY STIP PROJECTS**

When an LPA project involves federal dollars and is included in the STIP, all the prerequisites for authorization previously discussed in 12.320 apply. FHWA considers these to be ODOT projects for which ODOT gives authority to a local agency. ODOT maintains full responsibility for ensuring that these projects are done in conformance with all federal and state requirements as identified in the Uniform Act and the ODOT Right of Way Manual. Should the LPA wish to perform the right of way work itself, it should demonstrate that it is qualified to do so. (See 13.510)

Project Coordination functions differ significantly between LPA projects being administered by ODOT and projects being administered entirely by the local agency.

#### **12.520 PROJECT COORDINATION STEPS ON AN LPA STIP PROJECT – ODOT PERFORMING THE WORK**

1. Region staff submits a copy of the project interagency agreement to the Programming Coordinator;
2. Region submits a Right of Way Services Agreement signed by the LPA and the Region. This agreement details the work to be performed on the project by ODOT and the work to be done by the LPA or its Consultants. The Project Administration Manager reviews this agreement and obtains the signature of the Right of Way Section Manager when Section resources are being committed. The Programming Coordinator distributes copies of the fully signed Services Agreement to the Region, the project file and to General Files.
3. The Programming Coordinator:
  - a. Assigns a project number and notifies the Region;
  - b. Creates a project file in the General Files;
  - c. Sets up project and property file information in the RAIN
  - d. Checks to determine that the necessary prerequisites have been accomplished:
    - i. The project is identified and budgeted in the STIP;
    - ii. Required environmental actions have been completed
4. Region Staff submit copies of the completed project Right of Way Drawings and legal descriptions to the Programming Coordinator;
5. The Programming Coordinator requests that the Region staff prepare and submit a programming cost estimate for the project;
6. Upon receipt of the cost estimate, the Programming Coordinator determines that sufficient funding has been approved in the STIP budget for the Right of Way project;
7. The Programming Coordinator makes a formal request for funding approval to the

HFO;

8. The HFO formally requests funding approval and authorization from the FHWA;
9. The HFO requests that the local agency deposit its matching funds with the Department;
10. When funding approval has been received from FHWA and the HFO, the Programming Coordinator:
  - a. Sets up the Right of Way expenditure account (EA) in TEAMS;
  - b. Authorizes the Region and LPA to commence right of way activities and provides a project expenditure account to capture all subsequent costs. The Region and the LPA and/or contracted consultants are not to proceed with the right of way activities until this authorization is provided by the Programming Coordinator.

#### **12.530 PROJECT COORDINATION STEPS ON AN LPA STIP PROJECT – THE LPA PERFORMING THE WORK**

1. The LPA receives approval from the Region Right of Way Manager to carry out the project right of way activities itself or through use of consultants;
2. The Region LPA Liaison or Federal-Aid Coordinator submits a programming estimate to the Programming Coordinator.
3. The Programming Coordinator:
  - a. Checks to determine the project and budget are in the STIP;
  - b. Requests funding approval to the HFO
4. The HFO formally requests funding approval and authorization from FHWA;
5. The HFO requests that the local agency deposit its matching funds with the Department;
6. The HFO notifies the Programming Coordinator when the project is authorized and identifies the EA number for capturing costs;
7. The Programming Coordinator notifies the Region Right of Way Manager and the Region LPA Liaison or Federal-Aid Coordinator that

the project is authorized and provides the project EA.

**12.540 CERTIFICATION OF LPA PROJECTS (see also 3.680 – 3.685 and Appendix B following Chapter 3 for a more detailed discussion of Certification)**

All STIP LPA projects must be certified prior to the letting of the construction contract, generally following the process identified in 12.350. LPA Certifications are signed by both the LPA and the Region Right of Way Manager. Projects completed by local agencies that have been approved for self-certification do not require co-signing by the Region Right of Way Manager. A list of local agencies approved for self-certification can be obtained from the Right of Way Project Administration Manager. If a local project with state funds is being handled entirely by the local agency, including the letting of the construction contract, the Region Right of Way Manager does not have to co-sign the Certification. For projects performed entirely by the LPA, a copy of the Certification is not needed for Right of Way Performance Measures.

**12.550 NON-STIP LPA PROJECTS**

Right of way LPA projects which are funded entirely by local agency revenue fall outside the jurisdiction of ODOT. ODOT remains responsible in an advisory role regarding state and federal requirements involving eminent domain functions. The Department does not have direct authority over the LPA's activities or its use of local funds. As such, it neither monitors nor audits these projects, and there is no certification requirement.

The LPA may request assistance in carrying out the right of way activities on a given project. The details and extent of this assistance are stated in a Right of Way Services Agreement entered into by the LPA, the Right of Way Section, and the Region Right of Way staff in which the project is located. When ODOT performs any of the Right of Way functions for an LPA, they must be performed in accordance with all Federal and State requirements as identified in the Uniform Act and the ODOT Right of Way Manual.

**12.560 PROJECT COORDINATION STEPS IN A NON-STIP LPA PROJECT**

1. Region Right of Way submits a Right of Way Services Agreement signed by the LPA and by the Region Right of Way Manager. This agreement details the work to be performed on the project by ODOT and the work to be accomplished by the LPA or its Consultants. The Project Administration Manager reviews this agreement for acceptance of stated obligations and terms and obtains the signature of the Right of Way Section Manager when Section resources are being committed. The Services Agreement may be done on a project by project basis, or there may be a fully executed blanket Services Agreement between the LPA and the Department.
2. The Programming Coordinator:
  - a. Assigns a project number and notifies the Region;
  - b. Creates a project file in the General Files;
  - c. Sets up project and property file information in the Right of Way Automated Information Network (RAIN)
3. Region Right of Way submits a copy of the Right of Way Drawing, legal descriptions and a cost estimate to the Programming Coordinator;
4. The Programming Coordinator obtains an outside billing account number from Financial Services and sets up the account in TEAMS;
5. Financial Services notifies the Programming Coordinator when the full amount of the estimated Right of Way costs has been deposited with the Department.
6. The Programming Coordinator:
  - a. Authorizes Region Right of Way to proceed with the project;
  - b. Provides up to date project cost summaries as needed for the LPA and the Region and notifies Region if the expenditures are at risk to exceed the amount deposited. It is the Region Right of Way Office's responsibility to see that additional funds are deposited to cover the overage prior

- to continuing additional work
- c. Closes out the outside billing expenditure account at the completion of the project

### **12.600 PROJECT CONTROL SYSTEM (PCS)**

The Project Control System is an on-line database containing information on all projects in the six-year program. This is used in conjunction with the Management Scheduling and Control System (MSCS) to track and schedule projects for letting. The Programming Coordinator updates the Right of Way project information in PCS as needed.

### **12.610 RIGHT OF WAY DRAWING DISTRIBUTION AND REQUESTS**

Right of Way Drawings are created in the Region in which the project is located or by Consultants under contract with the Region. It is the responsibility of the Region or its Consultants to submit two copies of each Drawing to the Programming Coordinator in the Right of Way Section. The Programming Coordinator distributes one copy to Appraisal Review and one copy to the Roadway Section. The Programming Coordinator also obtains additional copies for FHWA as needed.