

CHAPTER 12 - RIGHT-OF-WAY PROCEDURES

12.1 GENERAL

12.1.1 Pursuant to federal regulations, FDOT is responsible for ensuring that all right-of-way acquired for Local Agency Projects (LAP) 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.

12.1.2 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. The FDOT Right-of-Way Procedures Manual and forms are available on the Internet at: <http://www.dot.state.fl.us/proceduraldocuments/>

12.2 RIGHT-OF-WAY ACQUISITION

12.2.1 Right-of-Way acquisition is excluded from general LAP certification pursuant to Chapter 3. 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.

12.2.2 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.

12.2.3 The FDOT District Right-of-Way Office may acquire needed LAP right-of-way 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 may result in FHWA withholding all federal funds from the project.

12.4 RIGHT OF WAY CERTIFICATION

The District Right-of-Way Manager must certify that right-of-way has been acquired in conformity with the Uniform Act and is available for construction for all LAP projects. Right-of-Way certification must comply with the requirements of the FDOT Right-of-Way 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.