

## Section 1.1

# RIGHT OF WAY PROCEDURES MANUAL

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## Section 1.1

# RIGHT OF WAY PROCEDURES MANUAL

### PURPOSE

The Right of Way Procedures Manual (Manual) establishes the minimum standards for administering the Right of Way Program for the Florida Department of Transportation (Department) pursuant to federal regulations, Florida Statutes, Florida Administrative Code, Department policy and good business practices.

### AUTHORITY

Section 20.23(3)(a), Florida Statutes  
Section 334.048(3), Florida Statutes

### SCOPE

Each section of the Manual will specifically identify the principal users of the document.

### REFERENCES

23 Code of Federal Regulations, Part 710.201 (c)  
Procedure No. 001-275-006, Title VI / NonDiscrimination Program  
Procedure No. 025-020-002, Standard Operating System  
Procedure 050-030-001, Form Development and Control  
Section 253.025, Florida Statutes

### DEFINITIONS

**Applicability:** This manual is applicable to property acquired for transportation rights of way that will be held in the name of the Department. Properties acquired for purposes other than transportation rights of way such as for office buildings and maintenance yards must be titled in the Trustees of the Internal Improvement Trust Fund and shall be acquired in compliance with **Section 253.025, Florida Statutes.**

**Directive:** A temporary document which places a procedural document into effect immediately when there is not sufficient time for the procedure review and adoption

process. It may introduce a new process, establish a pilot program, or modify an existing procedure and will be effective for at least 12 months.

**Guidance Documents:** Recommended processes intended to provide efficiency in the implementation of policies, procedures, and standards. A guidance document provides general program direction and does not set mandatory minimum standards.

**Mandatory Revisions:** Revisions required by changes in statutes, rules, federal regulations, court rulings or Department policy.

**Minor/Editorial Revisions:** Revisions which do not change a minimum standard and are not mandatory or substantial such as changes to grammar, punctuation, spelling, and formatting.

**Substantial Revisions:** Revisions which are not mandatory but change minimum standards.

## 1.1.1 Making Changes to the Manual and Forms

1.1.1.1 The responsible Central Office Deputy Director with approval from the Director, Office of Right of Way, will determine if proposed changes to the **Manual** are mandatory, substantial, or minor/editorial. Mandatory and substantial manual changes will be processed in accordance with **Procedure No. 025-020-002, Standard Operating System**. Minor/editorial changes may be approved by the responsible Central Office Deputy Director and the Policy and Process Management Unit.

1.1.1.2 Official Right of Way form changes will be processed in accordance with **Procedure No. 050-030-001, Form Development and Control**.

1.1.1.3 All revisions made to the **Manual** and Right of Way forms must be coordinated with the Policy and Process Management Unit. The **Manual** and forms are available on the Infonet and Internet. **NOTE:** Some forms are available in the Right of Way Management System (RWMS).

## 1.1.2 Creating Directives and Guidance Documents

1.1.2.1 To create and process a directive see **Section 10, Procedure No. 025-020-002, Standard Operations System**.

1.1.2.2 If the Director, Office of Right of Way, determines that written guidance or

clarification should be provided to the Districts to assist in implementing portions of the **Manual**, a **Guidance Document** may be issued. **Guidance Documents** will require only the review determined necessary by the Director, Office of Right of Way, prior to issuance. **Guidance Documents** will be maintained at the end of the **Manual** in consecutive order as they are developed.

### 1.1.3 Requesting Manual Exemptions

The Director, Office of Right of Way may grant an exemption to a requirement in the **Right of Way Manual** provided it is not based on federal and state statutes or Florida Administrative Code. The District Right of Way Manager must submit a request for exemption in writing to the Director, Office of Right of Way, stating the circumstances which support the exemption. The Director, Office of Right of Way, will review the request and render a written decision. FHWA may be consulted on issues involving federal aid participation.

### 1.1.4 Federal Requirements

**1.1.4.1 Non-Discrimination Statement:** All Right of Way processes described in the **Manual** shall comply with the following:

"The Florida Department of Transportation will not discriminate on the basis of race, color, national origin, sex, age, handicap/disability or income status. No person may be treated unfavorably, excluded from participating nor denied the benefits of any Department program or activity because of their race, color, national origin, age, sex, handicap/disability or income status. The Department will not retaliate against any person who complains of discrimination or who participates in an investigation of discrimination. Department grant recipients and contractors must comply with this policy."

See **Procedure No. 001-275-006, Title VI / NonDiscrimination Program**, for the entire Policy.

**1.1.4.2 Subgrantee and Contractor Oversight:** Each District Right of Way Manager must ensure that Title 23-funded projects are administered according to the FHWA-approved **Right of Way Manual** or a Real Estate Acquisition Management Plan (RAMP) that has been approved by the funding agency or the District Right of Way Manager or designee. The District Right of Way Manager or designee must also conduct periodic reviews of the subgrantees and contractors to ensure that there are no conflicts of interest and that fraud, waste, and abuse do not occur, pursuant to **23 Code of Federal**

***Regulations, Part 710.201(c).***

**TRAINING**

Required training is identified in each section of the ***Manual.***

**FORMS**

Referenced forms are identified in each section of the ***Manual.***